

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE SOUTHERN DISTRICT OF OHIO  
3                   WESTERN DIVISION, CINCINNATI

4  
5       EVERETT W. WHISMAN, et al.: Case No. C-1-02-406  
6                   Plaintiffs,                   : Judge Beckwith  
7       v.                                               : Magistrate Sherman  
8       ZF BATAVIA, LLC, et al.,               :  
9                   Defendants.                   :

10       \_\_\_\_\_

11                   Deposition of MICHAEL WARDEN, taken on  
12       Tuesday, August 5, 2003, commencing at 8:10 a.m.,  
13       at the offices of Baker & Hostetler LLP, 312 Walnut  
14       Street, Suite 3200, Cincinnati, Ohio, before  
15       Susan M. Barhorst, Notary Public.

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3 CYPRESS GARDEN  
CINCINNATI, OHIO 45220  
513-861-2200

1 APPEARANCES:

2 On behalf of Plaintiffs:

3 Stephen A. Simon, Esq.  
4 22 West Ninth Street  
Cincinnati, Ohio 45202

5 Also present:

6 E. Wayne Whisman

7 On behalf of Defendant ZF Batavia, LLC:

8 John J. Hunter, Jr., Esq.  
9 Hunter & Schank Co., L.P.A.  
1700 Canton Ave.  
Toledo, Ohio 43624

10

Also present:

11

Herb Huebner

12

On behalf of Defendant Ford Motor Company:

13

Jeffrey L. VanWay, Esq.  
14 Baker & Hostetler LLP  
312 Walnut Street, Suite 3200  
15 Cincinnati, Ohio 45202

16

Cross-Examination

17

by Mr. Simon

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1	WARDEN DEPOSITION	EXHIBITS	MARKED/IDENTIFIED
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1 MICHAEL WARDEN

2 being first duly sworn, testified as follows:

3 CROSS-EXAMINATION

4 BY MR. SIMON:

5 Q. Morning, Mr. Warden.

6 A. Good morning.

7 Q. My name is Steve Simon. I'm one of  
8 the attorneys for the plaintiffs in this action.  
9 We met each other at a previous deposition.

10 Were you listening, Mr. Warden, when  
11 people gave the ground rules for these depositions?

12 A. Yes, I was.

13 Q. Okay. So you understand that if I ask  
14 a question, you don't understand it, you need to  
15 ask me to rephrase it, re-ask it, so forth.  
16 Otherwise I'm going to assume you understood the  
17 question. You understand that?

18 A. Yes.

19 Q. All right. I assume you've had your  
20 deposition taken before?

21 A. I have.

22 Q. How many times have you had your  
23 deposition taken?

24 A. At least twice that I can recall.

1 Q. When were those times?

2 A. One was approximately five years ago,  
3 another --

4 Q. What was that?

5 A. -- another 10 years ago.

6 Q. Were they both when you were working  
7 for Ford?

8 A. Yes.

9 Q. Were they lawsuits?

10 A. Yes, they were.

11 Q. What was the last one?

12 A. The last one was a harassment --  
13 alleged harassment charge.

14 Q. Okay. Where was that case filed, do  
15 you know?

16 A. Lorain, Ohio, I believe.

17 Q. What was the name of the plaintiff?

18 A. I don't recall.

19 Q. You said it was five years ago?

20 A. Approximately.

21 Q. Okay. You still work for Ford; that's  
22 correct?

23 A. Yes, I do.

24 Q. When did you first begin working for

1 Ford?

2 A. August 9th, 1978.

3 Q. Okay. And just generally, I don't  
4 need every detail, but what was your educational  
5 and work background before you joined Ford?

6 A. Before that, I have a Master's in  
7 Business Administration with a concentration in  
8 Human Resources from the University of Pittsburgh.  
9 I was a Navy officer. I have a Bachelor's in Labor  
10 Relations from Penn State University.

11 Q. When did you get that degree?

12 A. 1971.

13 Q. Okay. Where did you work between 1971  
14 and 1978?

15 A. When I was in the Navy.

16 Q. You were in the Navy those years?

17 A. Yeah, and at the University of  
18 Pittsburgh for 11 months.

19 Q. Okay. And what position did you hire  
20 in at Ford?

21 A. Labor relations representative C.

22 Q. What did that mean?

23 A. I was a labor relations representative  
24 in a plant in Brownstown, Michigan.

1 Q. Okay. How long were you -- how long  
2 were you in Brownstown?

3 A. About a year.

4 Q. Let me actually jump ahead. When did  
5 you first move to Batavia?

6 A. Early 1998.

7 Q. What was your position when you came  
8 in 1998?

9 A. Human resources manager.

10 Q. And I think it might be easier to work  
11 backwards. Where were you immediately before 1998?

12 A. Human resources manager at Lorain  
13 assembly plant.

14 Q. How long were you in that position?

15 A. Three years.

16 Q. Were you in Lorain prior to becoming  
17 HR manager?

18 A. No, I was not.

19 Q. Where did you come from before you --

20 A. HR manager at Cleveland casting plant,  
21 Brook Park, Ohio.

22 Q. How long were you there?

23 A. Approximately two years.

24 Q. Okay. How many different plants have

1     you worked at between -- other than Batavia and  
2     Lorain and then you said you worked at Cleveland  
3     casting, then you started in Brownstown, Michigan,  
4     how many others are there?

5             A.     I -- I've worked in -- in total,  
6     including my present assignment, I've worked in six  
7     plants and at least four staffs.

8             Q.     At least four what?

9             A.     Staffs.

10            Q.     What do you mean?

11            A.     I worked at employee relations staff  
12     in Dearborn; I worked at finance staff in Dearborn;  
13     I worked for the Ford parts and service division  
14     staff in Dearborn; I worked for the sales operation  
15     staff in Detroit.

16            Q.     So why is it that you came to Batavia  
17     in early '98?

18            A.     I was asked to transfer to -- to  
19     Batavia from Lorain. Lorain had just -- we had  
20     just discontinued the Thunderbird-Cougar line there  
21     and Lorain was to become a -- a junior, sister  
22     plant to the Ohio assembly plant and I was asked  
23     to -- consider coming to Batavia and accepted that  
24     assignment.



1 Q. Who asked you to come to Batavia?

2 A. I believe it was Jim Quinlan, who was  
3 a manufacturing human resources director.

4 Q. Does he work in Dearborn?

5 A. He did at that time, yes. He's  
6 retired now.

7 Q. Did it have anything to do with your  
8 performance that you were asked to leave Lorain to  
9 go to Batavia?

10 A. I guess I need to understand that  
11 question better.

12 Q. Well, you explained that things were  
13 changing at Lorain. To your understanding, is that  
14 why you moved to Batavia or did they have certain  
15 problems with -- did they have problems with your  
16 job performance and --

17 A. There were no problems with my job  
18 performance.

19 Q. Was it a -- and I'm sorry. Lorain,  
20 your title was HR manager. So was this a lateral  
21 move to Batavia?

22 A. Yes, it was.

23 Q. Did you receive any increased benefits  
24 or compensation?

1 A. No.

2 Q. All right.

3 A. Let me clarify that. Not -- I  
4 received no increased compensation or benefits as a  
5 result of the -- the transfer. However, I was  
6 eligible for merit increases and that sort of  
7 thing. I don't -- I don't recall the timing of the  
8 merit increase for that year.

9 Q. Okay. So -- okay. When you came in  
10 1998 to the Batavia plant, did you have any idea  
11 that they were going to change ownership of the  
12 plant to the joint venture?

13 A. No, I did not.

14 Q. When did you first learn of the plans  
15 of the joint venture?

16 A. There was an announcement that was  
17 done with television feed to Batavia and an  
18 announcement by Jacque Nasser and the -- his  
19 counterpart for Zed-F. And -- and that was the  
20 first announcement in the plant. I learned of the  
21 joint venture approximately a week earlier than  
22 that.

23 Q. Who told you about it a week earlier?

24 A. I believe it was Tim Hartman and

1 George Lindstrom in Dearborn.

2 Q. What's Tim Hartman's title?

3 A. Tim, at that time, was a -- I believe  
4 he was a director for human resources for power  
5 train operations.

6 Q. And he worked in Dearborn?

7 A. Yes.

8 Q. And Mr. Lindstrom?

9 A. Mr. Lindstrom was a senior human  
10 resources associate, reported to Mr. Hartman, had  
11 special responsibilities for labor relations at  
12 power train operations.

13 Q. And did they tell you about this when  
14 you were in Dearborn?

15 A. Yes.

16 Q. What -- tell me how the conversation  
17 went or more contacts about how you learned of the  
18 joint venture.

19 A. Well, I believe the day before I went  
20 to Dearborn, I received a phone call asking that  
21 the plant manager, Alain Claus, and I drive -- go  
22 to Dearborn, that there was some information about  
23 the plant that had to be shared with us. And we  
24 met with Mr. Hartman and Mr. Lindstrom in

1 Mr. Hartman's office.

2 Q. The plant manager's name at the time  
3 was Claus?

4 A. Alain Claus.

5 Q. The two of you drove up to Dearborn,  
6 didn't know what the news was going to be and found  
7 out when you got there?

8 A. I believe that's correct, yes. It  
9 could have been that some information about what  
10 the -- what -- what was going to be shared with us  
11 was conveyed to me on the telephone. I don't  
12 recall.

13 Q. And so this was -- I'm sorry. I  
14 forget the time frame. But the TV feed that you  
15 talked about, was that October or so of '98?

16 A. Approximately.

17 Q. Okay. How long had you actually been  
18 at the plant at that time? You said you came in  
19 early '98.

20 A. About 10 months, I -- I think. I  
21 don't recall exactly my transfer date to Batavia.

22 Q. Okay. Well, what was your thought  
23 when you learned about the joint venture? Any  
24 concerns about your future?

1           A.     Yes, I had concerns about my future.

2           Q.     I assume because you had just come to  
3     this plant and then they're saying there was going  
4     to be a change in ownership, were you wondering if  
5     you were going to have a position there?

6           A.     Well, my thoughts for myself were  
7     if -- if there were to be a joint venture with Ford  
8     employees, then would I remain there or would I  
9     transfer or what -- what would happen with me and  
10    my family because we had just bought a house and so  
11    forth. So I didn't know what my future would be at  
12    that point.

13          Q.     Okay. What else were you told? What  
14    were you told about the joint venture? What kind  
15    of details were you given?

16          A.     I was -- I was -- most of the  
17    discussion had to do with labor relations issues at  
18    that time and with some responsibilities that my  
19    department would have with respect to due diligence  
20    that Zed-F would be performing in preparation for  
21    finalizing the joint venture agreement.

22                 So we talked about -- we talked mostly  
23    about hourly employees and -- and our relationship  
24    with the UAW and how that would -- that was

1 envisioned as being for the future and also some  
2 specific responsibilities that my department would  
3 have with respect to due diligence.

4           There was -- there was some discussion  
5 about salaried employees that was preliminary  
6 and -- and it had to do with a goal at that point  
7 that the -- that employees, both hourly and salary,  
8 could remain Ford employees.

9           Q.     Just to summarize what were you told  
10 at this meeting in Dearborn was that the goal was  
11 for salaried employees at the Batavia plant, for  
12 them to remain Ford employees?

13           A.     The discussion at that point was --  
14 was that employees could remain Ford employees,  
15 both hourly and salary. And that did change over  
16 time before the joint venture agreement was  
17 finalized.

18           Q.     Anything else discussed about the  
19 workforce during that meeting in Dearborn?

20           A.     Not -- not -- that I recall.

21           Q.     And, again, the people in the meeting  
22 would have been Mr. Clause, yourself, perhaps  
23 Mr. Lindstrom and Mr. Hartman?

24           A.     Yes.

1 Q. Anybody else you remember?

2 A. Not that I remember being in the  
3 meeting.

4 Q. And then did you get -- find out any  
5 other information between that time and then when  
6 there was the TV feed a week later?

7 A. Not anything different.

8 Q. And then the TV feed, that was -- this  
9 was Mr. Nasser again appearing by TV feed, right?

10 A. Yes.

11 Q. And some other people, Ford officials?

12 A. There was a Zed-F -- and I can't  
13 remember the head of Zed-F also was on the TV feed,  
14 but I don't recall his name.

15 Q. Okay. And was the same thing  
16 communicated on the TV feed that the goal was for  
17 the people in the plant to remain Ford employees?

18 A. My recollection is that -- that there  
19 was a very brief statement from Mr. Nasser that the  
20 employees could remain Ford employees. Prior to  
21 that meeting -- prior to that, however, there was a  
22 meeting the morning of the announcement that  
23 indicated that management employees would need to  
24 all be eventually ZF Batavia employees. However,

1       they would have the opportunity to remain Ford  
2       employees and go to other locations.

3           Q.     But that -- that part of it didn't  
4       work itself into Mr. Nasser's statement, I guess?

5           A.     No, I -- it was not part of the  
6       statement on the feed.

7           Q.     Who would management include? Would  
8       that include all salaried?

9           A.     That would be the department managers  
10      and there also was a -- I guess an objective or a  
11      goal that the -- that the higher level, middle  
12      management people, the superintendent level people,  
13      also -- also eventually all be ZF Batavia  
14      employees --

15          Q.     Would that be --

16          A.     -- at that time.

17          Q.     Well, I guess, is that like a  
18      superintendent may be one or two steps above group  
19      leader?

20          A.     A superintendent would -- would  
21      supervise group leaders and have an MPS who handled  
22      administrative kind of work and -- and filled in  
23      for the superintendent as well.

24          Q.     The superintendent level would have to



1 join ZF Batavia. That's what you understood the  
2 morning of the announcement?

3 A. Eventually, yes. And -- and you have  
4 to understand that this, again, is prior to the  
5 finalization of the joint venture agreement. So --  
6 so negotiations between Zed-F and Ford are  
7 continuing at that time and decisions are not  
8 finalized.

9 Q. Would Ford retain a copy of this TV  
10 feed?

11 A. I do not know the answer to that  
12 question. I was not part of putting together the  
13 TV feed.

14 Q. Is that customary for a statement like  
15 that, that -- by the way, the statement went to  
16 everybody in the plant and press that was there in  
17 Dearborn, I assume, or --

18 A. I believe there were press in  
19 Dearborn, yes.

20 Q. Any other audience besides the press  
21 in Dearborn and the people in the plant?

22 A. I don't know.

23 Q. But for these -- you've been at Ford a  
24 long time. They've done these kind of big

1 announcements, whether by TV feed or otherwise,  
2 you've seen this before for whatever reason?

3 A. Yes.

4 Q. Do they typically make a tape of these  
5 and retain them?

6 A. I -- some -- some, to my knowledge,  
7 tapes are -- are made and -- and retained. I have  
8 no idea whether this one was.

9 Q. Okay. Well, let's do it this way.  
10 Take me through, then, from that announcement --  
11 and this is, you say, around October '98, right?

12 A. Yes.

13 Q. Take me through, then, that period of  
14 time through the period of time which is, I think,  
15 roughly May 1999 when salaried employees -- certain  
16 salaried employees were offered jobs at ZF Batavia.  
17 Explain how we got from the -- the announcement to  
18 the jobs being offered to join ZF Batavia and  
19 explain what your role is.

20 A. At -- well, my role was to be the --  
21 to continue as the human resources manager for the  
22 Batavia plant. At -- at that time, all employees  
23 at the Batavia plant were Ford employees, as was I,  
24 as was my staff. And I worked with the -- I worked

1 with the management of the joint venture company  
2 and with Ford management on behalf of the Ford  
3 employees at ZF Batavia.

4 I also was involved in negotiations  
5 with the UAW for the working agreements that would  
6 apply to employees -- to hourly employees at ZF  
7 Batavia. I also worked with the UAW and negotiated  
8 for the UAW nursing unit at the plant and worked  
9 with Ford staff to develop a transition process for  
10 employees who desired to leave Batavia.

11 Q. You say you worked with the management  
12 of the joint venture?

13 A. Yes.

14 Q. Who are you referring to there?

15 A. Karl Kehr was the chief financial  
16 officer and -- and I don't recall when Dave Adams  
17 actually reported to the plant, but he was the  
18 chief executive officer.

19 Q. Wasn't Karl Kehr a Ford employee at  
20 that time?

21 A. Ford, yes, he was --

22 Q. Okay.

23 A. -- and eventually became the -- the  
24 chief financial officer of ZF Batavia. He was --

1 he was a Ford employee, as were all employees at  
2 that time because there was no ZF Batavia payroll  
3 or personnel policies or -- or anything to support  
4 ZF Batavia employees at -- initially.

5 Q. Okay. How did it -- at what point did  
6 it -- so you were a part of a lot of internal  
7 discussions with Mr. Kehr and other people in  
8 management at Ford in the plant at the time about  
9 developing a package of compensation and benefits  
10 for the Ford salaried employees to consider in  
11 joining ZF Batavia?

12 A. I was in -- in several conversations,  
13 yes.

14 Q. How did it go from the public  
15 announcement where people were told that they would  
16 be able to stay with Ford as a Ford employee at the  
17 plant to the situation that ultimately involved  
18 where people -- where people were given a choice?

19 A. Yeah, at some point between that  
20 announcement and the finalization of the -- of the  
21 negotiated agreements between Zed-F and Ford to  
22 form the joint venture, a decision was made that --  
23 that eventually through a transition process, Ford  
24 employees, all -- all Ford salaried employees

1 would -- would either be -- be offered and given  
2 the opportunity to accept or reject a -- a position  
3 at ZF Batavia as a ZF Batavia employee, or a  
4 transfer to another location and remain a Ford  
5 employee.

6 So each -- each individual could  
7 remain a Ford employee, if they -- if they chose to  
8 do so, or they could -- they could elect to  
9 terminate their Ford employment and become ZF  
10 Batavia employees if --

11 Q. Did someone ever explain it --

12 A. -- if made an offer.

13 Q. I'm sorry. I didn't mean to interrupt  
14 you. Was there anything else you wanted to say?

15 A. No.

16 Q. Okay. Did anyone explain to you the  
17 rationale for the change from the initial statement  
18 that people remain Ford employees into -- they  
19 had -- they were given a choice to join ZF Batavia  
20 or staying with Ford or go somewhere else? Did  
21 anyone ever explain the rationale for that?

22 A. I don't recall who explained it, but  
23 the rationale that was provided to me was that  
24 because ZF Batavia was going to be a stand-alone

1 company, a joint venture that was 51 percent owned  
2 by Zed-F, that the -- so that the company could  
3 compete in the international marketplace, they  
4 wanted to have the salaried employees, that is the  
5 management and professional employees in the plant  
6 become employees of ZF Batavia and not -- and not  
7 be Ford employees.

8 And there was some rationale that --  
9 that would -- if the employees in the plant were  
10 Ford employees, that would impede the  
11 competitiveness of the plant in -- in being able to  
12 sell transmissions to other -- other companies and  
13 that sort of thing. And, in addition, the -- it  
14 was desirable for the people in the plant who were  
15 in management and professional capacities to have  
16 their decision making be focused on the well-being  
17 of ZF Batavia and not slanted by decisions for a  
18 main customer, like Ford Motor.

19 Q. As it turns out, the only customer of  
20 ZF Batavia is Ford Motor Company, right?

21 A. I have heard that; however, I don't  
22 know.

23 Q. Has anyone ever told you that ZF  
24 Batavia has another customer besides Ford?

1           A.     At this -- at this point, I know of no  
2     other customers besides Ford. At the time,  
3     however, I am aware that ZF Batavia was working  
4     hard to market to at least Volkswagen and Fiat and  
5     I don't -- I left the plant before any of -- any of  
6     that was concluded, so I don't know what the  
7     conclusion of -- of those negotiations or sales to  
8     those companies was.

9           Q.     Were you told during this period that  
10    you were ultimately going to leave the plant?

11          A.     Yes.

12          Q.     When were you told that?

13          A.     Sometime between October and May, I --  
14    but I don't recall exactly --

15          Q.     Okay.

16          A.     -- when that was.

17          Q.     And you ultimately left the plant  
18    when, in early 2000?

19          A.     I reported to my present position --  
20    was assigned there March 1st of 2000.

21          Q.     Okay. Let's see. Were you -- you  
22    said you were part of discussions in putting  
23    together a package of compensation benefits for the  
24    salaried employees at the plant to consider in

1 joining ZF Batavia?

2 A. Yes, I was.

3 Q. And you worked with -- Karl Kehr was  
4 someone that you worked with on that?

5 A. Actually Karl Kehr led that effort and  
6 the involvement I had was to attend a meeting with  
7 Ernst and Young where there were -- where a  
8 compensation philosophy was developed.

9 Q. Okay. Was that held in -- those  
10 meetings held in New York?

11 A. The meeting I attended was in Batavia.

12 Q. Oh, okay. Let me ask you it this way.  
13 Do you have the -- all the exhibits?

14 MR. VANWAY: Yeah.

15 MR. SIMON: Makes it easier.

16 Q. Pull out Exhibit 2. You have in front  
17 of you a copy of an exhibit that's marked as  
18 Exhibit 2 we've used in previous depositions.  
19 There may be a number of exhibits that have been  
20 used in previous depositions, Mr. Warden, that I'll  
21 show you today.

22 Have you seen Exhibit 2 before today?

23 A. Yes, I have.

24 Q. I'm not talking about the copy that



1       says "Exhibit" on it, but when was the first time  
2       you saw this document?

3           A.     Well, the first time I saw this  
4       document, it was -- this is a photocopy of a  
5       tri-fold, glossy summary of ZF Batavia compensation  
6       and benefits for Ford employees who elected to  
7       become ZF Batavia employees. And I first saw this  
8       after it was developed -- completely developed by  
9       Karl Kehr and -- I believe Karl Kehr and also Tony  
10      DeShaw, who was the benefits manager who worked for  
11      Karl Kehr. And I'm talking about the completed  
12      document, that's when I first saw it.

13          Q.     Well, do you know how this document --  
14      so it's your understanding that Karl Kehr and Tony  
15      DeShaw put this document together?

16          A.     Yes.

17          Q.     Tony DeShaw, was he a Ford employee?

18          A.     No.

19          Q.     Where did he come from?

20          A.     He was a -- I believe he was a  
21      contract employee who was -- who reported to Karl  
22      Kehr for the express purpose of managing benefits.

23          Q.     Was he in the plant when you arrived  
24      in 1998?

1 A. No, he was not.

2 Q. Did he arrive sometime after the joint  
3 venture was announced?

4 A. Yes.

5 Q. We've referred to this as the glossy  
6 brochure. I think we've called it the tri-fold  
7 brochure, the tri-fold summary, gray brochure, so  
8 if I call it any of those, I'm referring to Exhibit  
9 2.

10 What's your understanding -- and you  
11 understand and you agree that on the beginning, the  
12 first page of Exhibit 2 on the left-hand column, it  
13 has some provisions regarding Ford's general  
14 retirement plan benefits, right?

15 A. On this copy, it is on the left-hand  
16 side --

17 Q. Right, right.

18 A. -- of the -- the front page. However,  
19 on the tri-fold it was not.

20 Q. I understand. The second page of the  
21 copy you have in front of you, Exhibit 2, has  
22 provisions about salary, annual incentive plan,  
23 merit increase, so forth, right, among others?

24 A. Yes, it has a number of subcategories.

1           Q.     What's your understanding of how --  
2     and I don't necessarily mean this exact document,  
3     but how this package was put together?

4           A.     My understanding is that Karl Kehr and  
5     Tony DeShaw utilized information regarding Ford  
6     compensation and benefits and information from a  
7     study done by Ernst and Young to develop a  
8     competitive, transitional compensation and benefits  
9     program, which could be offered to -- to Ford  
10    salaried employees at the time within the plant as  
11    the initial compensation and benefits for them, if  
12    they chose to join the joint venture, and -- and it  
13    was a summary of those benefits.

14          Q.     You said you were part of a Ernst and  
15    Young meeting in Batavia. Was that a series of  
16    meetings held at the plant?

17          A.     My recollection is that it was a  
18    one-day meeting at the plant. Could have been two,  
19    but I -- I recall it as one.

20          Q.     And then it's your understanding that  
21    following this meeting, Karl Kehr and Tony DeShaw,  
22    perhaps others, worked on developing this package  
23    of compensation and benefits to offer to the  
24    salaried employees?

1 A. Correct.

2 Q. And you were -- you were participating  
3 in other meetings where this was discussed?

4 A. On occasion, there were -- there were  
5 meetings to discuss these things.

6 Q. Was there somebody -- were you dealing  
7 mostly with the UAW at that point or salaried?

8 A. He was dealing with both. However,  
9 there were -- there was an awful lot of UAW  
10 business to do at that point. And -- and I was  
11 working very closely with the union bargaining  
12 committee and the company bargaining committee and  
13 also with the -- with the HR staff people for labor  
14 relations issues.

15 At the same time, I was -- I was  
16 working with other HR staff people for transition  
17 processes for salaried employees.

18 Q. Were you the top person in HR at that  
19 time?

20 A. At the plant, yes.

21 Q. Okay. Were there people subordinate  
22 to you who you directed to handle a lot of the  
23 issues with the salaried employees?

24 A. Yes, I had a staff.

1           Q.     Who would have been the people you  
2     would have looked to to handle the salaried  
3     employee issues regarding the transition?

4           A.     There were -- and I -- I have to be --  
5     timing is a -- is a little difficult because I did  
6     have transfers out of my department. So there was  
7     a -- an individual -- there was an individual that  
8     reported to me who was a management-role person  
9     who -- who transferred out of -- actually he -- he  
10    decided to quit Ford Motor Company during that  
11    process. And I don't recall the exact timing. And  
12    there were three other people who worked with  
13    salary personnel matters. Dyvetta O'Neal was one,  
14    Ann Jones was another and Peggy Jameson worked some  
15    on salary matters, but mostly on -- on hourly  
16    matters.

17          Q.     Is Ann Jones still with the company?

18          A.     Ann -- Ann Jones retired from Ford  
19    Motor Company.

20          Q.     The person that quit, I think I know  
21    the name. Who's the HR person you said had quit  
22    and left Ford?

23          A.     I can remember the first name.

24          Q.     What was --

1           A.     His first name is Mark.

2           Q.     Okay. We might come back to that.

3     All right. Now, I imagine when I asked you about  
4     concerns you might have had when you learned about  
5     the joint venture, I assume you were hearing  
6     concerns starting October '98, concerns that the  
7     salaried workforce had about their future at the  
8     plant?

9           A.     Yes.

10          Q.     What kind of concerns were you  
11     hearing?

12          A.     Well, because the -- the joint venture  
13     was a -- an announcement that the two -- two  
14     companies were -- were planning to enter this joint  
15     venture, employees were concerned -- and I, because  
16     of the -- this case, I'm going to speak in terms of  
17     salaried employees.

18                 Salaried employees were concerned  
19     about their -- their future, what -- would they be  
20     able to remain Ford employees, for example. Would  
21     they be able to remain Ford employees at ZF Batavia  
22     and for how long? Would they -- would their --  
23     would they -- would something happen to them, like  
24     they read in papers about other companies who

1       formed joint ventures or -- or had buyouts and --  
2       and they're simply forced to join the -- the  
3       successor company and take whatever compensation  
4       and benefits are -- are applicable to them or be  
5       laid off or what would happen?

6               There was no -- it wasn't defined and  
7       it wasn't defined because it was a brand new  
8       announcement. And so all of that -- all of those  
9       things had to be defined. And a lot of our  
10      salaried employees wanted to stay in Cincinnati.  
11      And they were very much interested in -- in  
12      assignments in Cincinnati and they -- they -- a  
13      number of people did not want to leave Cincinnati.

14             Q.     A lot wanted to -- if given the choice  
15      between staying in the plant and ZF -- become ZF  
16      Batavia employees, a lot of them preferred to  
17      transfer to the Ford plant in Sharonville?

18             A.     Many people were interested in  
19      assignments at Sharonville, yes.

20             Q.     Okay.

21             A.     A number of them. I don't know how  
22      many.

23             Q.     But at one point, Ford actually put a  
24      freeze on people moving over to Sharonville during

1       this period, right?

2           A.     That's -- well, Ford put a freeze on  
3       people leaving the Batavia plant. It was not  
4       specific to Sharonville, that I recall. It was --  
5       it was that -- because of the transitional issues  
6       and the need for the plant to continue operations,  
7       that there had to be a metering process for  
8       employees to leave the plant. And, yes, there was  
9       a six-month freeze.

10          Q.     Do you remember when that began?

11          A.     I -- my recollection is that the  
12       overall freeze ended in April and -- and starting  
13       in April, people were -- then had the opportunity  
14       to move to other locations on a metered basis  
15       because the operations there had to continue.

16          Q.     Starting in April, were people  
17       permitted to go to Sharonville?

18          A.     Yes, as far as I recall. If it  
19       wasn't -- there was no guarantee of any specific  
20       location.

21          Q.     Is your recollection -- so in April,  
22       the freeze ended; that's your recollection?

23          A.     Yes.

24          Q.     And would it sound right to you -- I'm



1 just recalling what some of the offer letters said  
2 to some of the salaried employees at -- in May  
3 1999, people were given offer letters to join ZF  
4 Batavia; does that sound right?

5 A. Yes.

6 Q. So around the time that they were  
7 getting these offers, as far as you understood,  
8 there were openings at Sharonville?

9 A. I don't recall if there were any  
10 openings in Sharonville at the time or not.

11 Q. Do you remember -- do you know who all  
12 my -- who the 15 people are in this lawsuit?

13 A. No.

14 Q. All right. Let me -- let me  
15 familiarize you with the names. I just want to ask  
16 you if you had conversations with any of these  
17 people, so I'll give you the names. Ron Pearce,  
18 Wayne Whisman, who is to my left. Rick Ervin, Mike  
19 Steward, Gary Vories, Pam Blanco, Jim Crump, Lee  
20 Stegmann, Ted Edrington, Dennis Baker, Don  
21 Williams, Dena Stevens, Teri Parker, Bill DeVito,  
22 Randy Newsome. Do you know who those people are?

23 A. Yes.

24 Q. All 15?

1           A.     My recollection is that all are --  
2     were, at the time, Ford salaried employees.

3           Q.     Okay. All right. Do you remember  
4     talking to any one of those individuals or more of  
5     those individuals about their decision to join ZF  
6     Batavia?

7           A.     I would expect that at some -- at some  
8     point, I had had contact with most, if not all in  
9     some conversations.

10          Q.     Can you specifically recall any of  
11     them, as you sit here today?

12          A.     No.

13          Q.     What, just generally speaking, would  
14     have -- what would have the conversation been? And  
15     this would be early 1999, I take it.

16          A.     Well, early -- early on after the --  
17     and I don't -- I'm not going to say whether it was  
18     early 1999 or late 1998, but early after the  
19     announcement, Alain Claus and I had meetings with  
20     salaried employees periodically to update the  
21     salaried employees on our understandings of -- of  
22     what was happening with the -- with the development  
23     of a joint venture company.

24          Q.     Question and answer sessions?

1           A.     There were questions and answers  
2     involved in it, yes.

3           Q.     And you said you had contact with  
4     most, if not all of the 15 people I named. That  
5     may have also included one or more meetings?

6           A.     Could have, but I don't recall any  
7     specific ones.

8           Q.     Do you remember, was it possible that  
9     some of those 15 might have asked you, Mike, are  
10    there openings in Sharonville?

11          A.     It's possible.

12          Q.     Do you remember Gary Vories asking  
13    you?

14          A.     No, I don't.

15          Q.     If Gary recalled that you said, no,  
16    there's no openings in Sharonville, would you have  
17    any reason to doubt it?

18          A.     No, I wouldn't because at any -- at  
19    any point in there, there could be or may not be  
20    openings in any Ford plant to include Sharonville.

21          Q.     Okay. Were you part of discussions  
22    regarding which salaried employees at Ford would be  
23    given offers to join ZF Batavia?

24          A.     Yes.

1           Q.     Who did you talk to about those issues  
2     and how was that ultimately determined?

3           A.     At some point early on in the -- in  
4     the process, the management committee at ZF  
5     Batavia, which included the -- since it was before  
6     there was a developed compensation and benefits  
7     process or even a payroll process for ZF Batavia,  
8     it -- it included the -- the Ford managers that  
9     were there, led by Karl Kehr, to discuss the  
10    salaried employees in the -- in the plant, the Ford  
11    salaried employees in the plant and the -- whether  
12    or not ZF Batavia would make offers to those  
13    employees as -- as an initial waive of offers for  
14    employment at ZF Batavia.

15          Q.     Okay. Was it ultimately determined  
16    that you wanted the best of the bunch to stay at  
17    the plant?

18          A.     It was -- it was determined that  
19    the -- the discussions revolved around how would  
20    these employees fare, both in terms of being able  
21    to achieve the ZF Batavia production, quality, cost  
22    objectives and to work in a stand-alone,  
23    profit-centered company, small company, as opposed  
24    to a cost center within a large company, like Ford

1 Motor Company. And -- and there were -- there were  
2 discussions about the individuals' performance  
3 and -- and adaptability to that kind of  
4 environment.

5 Q. In other words, performance had to be  
6 one of the main factors, right?

7 A. Yes.

8 Q. So as far as you knew, the people that  
9 were offered jobs to join ZF Batavia were good  
10 performers?

11 A. Were acceptable performers, yes.

12 Q. And it was critical, as you understood  
13 it, that you -- the plant to succeed under this  
14 joint venture needed a critical mass of salaried  
15 employees to stay in the plant, otherwise the plant  
16 would discontinue, right, in the short term?

17 A. Well, that's -- that's a little bit of  
18 a complicated question. My understanding was this.  
19 That the production operations at ZF Batavia needed  
20 to continue and produce high quality transmissions,  
21 the CD4E, and eventually after development, the  
22 CVT.

23 So -- and it had to be competitive in  
24 the marketplace and -- and that was both as for

1 Ford as its customer and as it was marketing its  
2 products to other automotive companies. Therefore,  
3 experienced people who knew how to produce good  
4 transmissions and to supervise UAW hourly employees  
5 and to manage the production and maintenance  
6 operations in that organization were important for  
7 the organization to do well. Survival is a  
8 different question. I -- I don't know the answer  
9 to that.

10 Q. Well, you're not -- if -- do you know  
11 how many Ford transitional employees ultimately  
12 came over to join ZF Batavia?

13 A. Maybe I can back into a number. I  
14 believe we made offers to approximately 70 percent  
15 eventually of the employees at -- at Batavia,  
16 approximately. About half of those, I think,  
17 accepted eventually.

18 Q. 70 percent would have been how many  
19 people?

20 A. Somewhere around a hundred, I think,  
21 but I'm not real sure of that number.

22 Q. Okay. All right. About 50 accepted?

23 A. Approximately --

24 Q. Okay.

1 A. -- in that, in that range.

2 Q. All right. If those 50 had not  
3 accepted, that said, Well, we're going to stick  
4 with Ford or leave Ford. We're not staying in the  
5 Batavia plant. I mean, realistically could ZF  
6 Batavia have continued?

7 MR. VANWAY: Object to form.

8 THE WITNESS: Should I answer?

9 MR. VANWAY: You can answer to the  
10 extent that you know.

11 A. I -- I don't know the answer as to  
12 whether or not it could have continued.

13 Q. Okay. I mean, was there any  
14 contingency plans discussed that if -- look, if  
15 these people, these salaried employees don't join  
16 the company, then we're going to hire some people  
17 off the street, so to speak, who are going to fill  
18 their positions and continue to make the CD4E?

19 A. Well, we did hire people from -- from  
20 off the street as ZF Batavia employees.

21 Q. Right.

22 A. And -- and we had plans to hire ZF  
23 Batavia employees for those -- those individuals  
24 who didn't accept Ford assignments. And so -- so,

1       yes, there were plans to do that.

2               Q.     But you have no opinion on whether if  
3       this roughly 50 people had said, no, we're not  
4       coming, do you -- based on your conversations with  
5       people involved in this -- in the formation of the  
6       joint venture, do you have any reason to believe  
7       that the plant -- the management could have hired  
8       that many people off the street and plugged them  
9       into the manufacturing facility so that it could  
10      continue in 1999?

11             A.     My personal opinion is that it would  
12      have been very difficult for -- for the plant to  
13      operate in an efficient way.

14             Q.     And from your point of view, it was  
15      really important that the package of compensation,  
16      benefits that were offered to salaried employees  
17      was competitive enough that it would be attractive  
18      enough to them to stay in the plant, right?

19             A.     Yes.

20             Q.     Especially -- okay. The CVT  
21      obviously -- strike that.

22                     The people who joined the plant had,  
23      in your understanding, years of experience on  
24      producing the CD4E transmission?



1 A. Yes, I -- a range of experience.

2 Q. All right. And the plant at that time  
3 in '99 was to -- obviously CD4E would continue  
4 during at least a two- or three-year period after  
5 which the plant would start transitioning towards  
6 production of the CVT?

7 A. While I'm not certain of the time  
8 frames, that's the general -- that was my general  
9 understanding.

10 Q. All right. And it was your  
11 understanding that it was critical to have the Ford  
12 transitional people stay there for the CD4E  
13 production, right?

14 A. Important, yes --

15 Q. And at the time --

16 A. -- for them to do so.

17 Q. Okay. And at the time in 1999, you  
18 understood from your conversations with other  
19 people in ZF Batavia management, Ford management,  
20 that the plan was to hire in the new -- the ZFB --  
21 the ZF Batavia new hires were to come in and fill  
22 positions in the CVT, right?

23 A. That was not my understanding, no.

24 Q. What was your understanding?

1           A.     My understanding was that -- was that  
2     the plant production and new departments actually,  
3     since -- since Ford did not have a purchasing  
4     activity, did not have a treasury activity, did not  
5     have a sales activity and so forth at the plant,  
6     that new -- new employees needed to be hired  
7     throughout the organization, both to fill new  
8     functions and to continue the -- the operation of  
9     the plant in a manufacturing organization. There  
10    was no distinction between CD4E and CVT, although  
11    at that time, CD4E was the only product being  
12    produced.

13           Q.     You've heard of this May 27th, 1999  
14    meeting that's been discussed at this deposition.  
15    There's a packet of material that we've produced  
16    regarding that meeting. Are you aware of that?

17           A.     Yes.

18           Q.     Were you at that meeting?

19           A.     I was.

20           Q.     But you weren't one of the speakers;  
21    is that right?

22           A.     No, I was not.

23           Q.     Okay. How is it that that meeting  
24    came to be?

1           A.     That meeting was a follow-up meeting  
2     to other meetings that -- that were specific to  
3     Ford employees and -- and -- and decisions for Ford  
4     employees. The purpose of the May 27th meeting was  
5     to outline the compensation and -- and benefits  
6     process and some of the objectives of the -- of the  
7     ZF Batavia company, with respect to people who  
8     would elect to join that new company.

9           Q.     Okay. Was Exhibit 2 the tri-fold  
10    brochure, was that handed out at the May 27th  
11    meeting?

12          A.     The tri-fold brochure was available at  
13    that time, as I recall. I do not recall whether or  
14    not it was handed out at the meeting.

15          Q.     Exhibit 2, the tri-fold brochure was  
16    available May 27th to salaried employees who wanted  
17    to review it?

18          A.     Yes. Let me back up. I -- I guess  
19    I'm not certain of that. I'd have to review when  
20    we made offers to salaried employees, the date of  
21    those offers, before I could be certain that the  
22    tri-fold was available at that time.

23          Q.     The date that you made offers to the  
24    Ford transitional employees, you're certain that

1 Exhibit 2 was available at that time?

2 A. Yes.

3 Q. This is perhaps a bad example. Do you  
4 have Exhibit 3? Try to keep that. Exhibit 3,  
5 is -- is that an offer letter to Mr. Whisman?

6 A. Yes, it is.

7 Q. Do you see -- this is a bad example, I  
8 suppose. But do you see where it has the date, May  
9 27th, 1999 and it's crossed out?

10 A. I do.

11 Q. And then it has November 30th. Is it  
12 your recollection that Mr. Whisman was offered a  
13 job later than a lot of the other Ford transitional  
14 employees? Or strike that.

15 Is it your understanding Mr. Whisman  
16 decided to join the ZF Batavia organization  
17 sometime after a lot of the other people did?

18 A. Yes.

19 Q. Okay. If I showed you other documents  
20 that had May 17, 19 -- well, strike that, too.

21 Does May 17th, 1999 sound about right  
22 when a lot of people were given their offers?

23 A. Yes, it does.

24 Q. And were they given them -- even

1     though they were given individually, was  
2     essentially a form letter created on or about May  
3     17th and then they were distributed out to the  
4     employees?

5             A.     That's correct.

6             Q.     Who created the form -- Exhibit 3 is  
7     essentially a form letter, right?

8             A.     Yes.

9             Q.     Who created the form letter?

10            A.     I drafted the form letter --

11            Q.     Okay.

12            A.     -- with some help with others.

13            Q.     Okay. Who did you help with?

14            A.     I believe Dyvetta O'Neal helped me  
15     with that.

16            Q.     Who did?

17            A.     Dyvetta O'Neal.

18            Q.     I mean, did she help you like fill in  
19     the different figures, like how much they're going  
20     to pay per month, that sort of thing?

21            A.     And the verbiage, as I recall.

22            Q.     Well, you see in the first full  
23     paragraph where it mentions joining the ZF Batavia  
24     team and it says in parenthesis "(summary

1 attached)"?

2 A. Yes.

3 Q. Was Exhibit 2 the summary that was  
4 attached, to your understanding?

5 A. Yes, it was.

6 Q. Okay. This might be confusing to  
7 someone who's reading the transcript later. Your  
8 testimony is that the tri-fold, glossy brochure  
9 that is Exhibit 2 was attached to the form offer  
10 letter example, which is Exhibit 3?

11 A. Yes. The process was to attach the  
12 glossy to the -- to the letter with a paperclip.

13 Q. All right. Not a staple?

14 A. I do not recall stapling anything.

15 Q. Well, you said "paperclip," so I  
16 thought perhaps that was significant. Well, let's  
17 talk about the nuts and bolts. You tell me what  
18 the procedure was after the letter was created, who  
19 gave it to the individual salaried employees, that  
20 sort of thing.

21 A. The letter was provided to the manager  
22 who was doing the -- who -- for whom the  
23 position -- under whom the position would report  
24 and that manager or his representative was to

1 present it to the salaried employee.

2 Q. Like in Mr. Whisman's Exhibit 3, we  
3 see Hassan Saleh at the -- his signature at the  
4 bottom?

5 A. Yes.

6 Q. I may have misstated what you just  
7 said, but correct me if I'm wrong. Was your  
8 procedure then that Hassan Saleh would be the one  
9 who would give it to Mr. Whisman?

10 A. For this letter, which -- which was  
11 November 30th, 1999 --

12 Q. Yeah.

13 A. -- that is correct.

14 Q. If we look at the other letters and we  
15 look at the person whose name is signed there, is  
16 that the person, then, who you would have expected  
17 to give the document to the salaried employee?

18 A. Yes, or his representative if he  
19 wasn't there.

20 Q. Whose representative?

21 A. The manager's representative.

22 MR. SIMON: Oh, I see. Okay. All  
23 right. You can -- Jeff, however you want to do  
24 this. If you want to put exhibits back in the

1 folder --

2 MR. VANWAY: Okay.

3 MR. SIMON: We probably -- we may come  
4 back to exhibits.

5 MR. VANWAY: Okay. I'll hold on to  
6 it. You all right? You need a smoke?

7 THE WITNESS: No, I'm fine.

8 MR. SIMON: You had heard the ground  
9 rules before, so you understand if you need a break  
10 at any time, Mr. Warden, you're -- just say so.

11 MR. WHISMAN: Thanks for reminding me.  
12 Excuse me.

13 MR. SIMON: Mr. Whisman will step out  
14 for a second. Let's see. I think there's no time  
15 like the present. Let's jump into some documents.

16 BY MR. SIMON:

17 Q. Take a look at Exhibit 65. For some  
18 reason, I'm missing a copy, so you have to -- have  
19 you seen this document before, Mr. Warden?

20 A. No, I haven't.

21 Q. All right. And it says -- you agree  
22 it says at the top "Appendix A Design Team  
23 Members," right?

24 A. Yes.



1           Q.     I don't recall -- I know it says  
2     "Appendix A." I don't -- this was a document that  
3     was produced to us by ZF Batavia. I don't recall  
4     if it was actually attached to another set of  
5     documents, but I'm just presenting this one  
6     document to you.

7                     Was there a thing called the "Design  
8     Team" during the transition period?

9           A.     I don't recall a -- an organization  
10     called the "Design Team," no.

11          Q.     All right. You see that you're listed  
12     as one of them, right?

13          A.     Yes.

14          Q.     Okay. Is it fair to say these were  
15     the people who were involved in putting together,  
16     among other things, a package of compensation,  
17     benefits for the salaried employees in the plant in  
18     '99?

19          A.     This appears to me to be a listing of  
20     the -- of the people who attended the meeting that  
21     I attended at Batavia where Ernst and Young worked  
22     with the management at Batavia at the time to  
23     develop compensation and benefits philosophy for ZF  
24     Batavia.

1 Q. Where it says "ZF Batavia Management,"  
2 are those -- other than Dave -- well, let's --  
3 sorry.

4 Mark -- I've heard his pronunciation  
5 before. I'll probably say it wrong, but is that  
6 Bugajaski?

7 A. Mark Bugasjaski.

8 MR. HUEBNER: Bugasjaski.

9 Q. Bugasjaski, thank you. Is he -- and  
10 he's currently -- is he at Batavia?

11 A. I believe he is.

12 Q. Okay.

13 A. I have not worked at ZF Batavia for  
14 several years.

15 Q. I understand. Had he previously been  
16 with Ford?

17 A. Yes.

18 Q. And Mr. Claus had also been with Ford?

19 A. Yes.

20 Q. Mr. Corbett is still at Ford?

21 A. Yes.

22 Q. Kurt Gogolin, who is that?

23 A. Kurt Gogolin was a -- a Zed-F employee  
24 and I believe he had responsibility for purchasing.

1 Q. Dave Longridge?

2 A. Dave Longridge is a Ford employee.

3 Q. Still is?

4 A. As far as I know, yes.

5 Q. And John Zielke, he was -- he's Ford,  
6 right?

7 A. Yes.

8 Q. Is he retired?

9 A. I do not know.

10 Q. Okay. All right. We can put that one  
11 aside. Mr. Warden, the next set of documents I'm  
12 going to show you are a -- a lot of e-mails during  
13 this period of time. And for the most part, I'm  
14 going to show them to you chronologically. So  
15 perhaps it might refresh your recollection about  
16 these events.

17 Have you reviewed documents in  
18 preparation for this deposition?

19 A. Yes.

20 Q. What documents did you review?

21 A. My file that my attorney had.

22 Q. Is that -- maybe Mr. VanWay can pipe  
23 in. When you say your file, are you talking about  
24 a set of documents that were from -- produced to us

1 in this case that were from Mike Warden's file?

2 A. Yes.

3 Q. Any other documents?

4 A. I did take a look at some recent Ford  
5 benefits and compensation documents that are  
6 recent.

7 Q. Did you review Ford's overtime policy  
8 for salaried employees?

9 A. I did.

10 Q. Okay. Let's take that one while we're  
11 there. What is Ford's current policy for salaried  
12 employees, their payment of overtime?

13 A. Payment of overtime for salaried  
14 employees varies. For exempt employees, the -- the  
15 process today is that employees may be paid for  
16 authorized, scheduled overtime, to the extent that  
17 it's authorized by their management. And there is  
18 also an expectation of casual time, which is  
19 unpaid, to do necessary administrative tasks and  
20 that policy is changing because of a recent  
21 announcement of a 10 percent reduction in salary  
22 costs at Ford Motor Company. And I'm aware that  
23 there are -- there's a proposal to change the  
24 overtime policy as part of that and -- and to

1 change the rates of the overtime and who is -- who  
2 may work overtime.

3 Typically under the present policy,  
4 exempt employees may -- may work as many hours that  
5 they find necessary to complete their assignments  
6 without compensation.

7 Q. What's the status of this proposal to  
8 change the overtime policy?

9 A. My understanding is that it's to be  
10 reviewed in late August and would be effective in  
11 September, if approved.

12 Q. Okay. Is there a possibility that's  
13 not going to be approved in your mind?

14 A. There's a possibility it would not be  
15 approved. However, there is a -- there is a 10  
16 percent reduction in salaried costs that has been  
17 announced. So the -- the way the company is trying  
18 to do that is steps short of layoffs and reduction  
19 of salaried people --

20 Q. Okay. Well --

21 A. -- although that could be -- could  
22 also occur.

23 Q. Okay. If I wanted to know about this  
24 proposal, I suppose the best way to understand it

1 in full is to read -- are there some documents that  
2 reflect this proposal?

3 A. Yes.

4 Q. And ultimately there's going to be  
5 some document, if it's effective, in September of  
6 this year, there will be some written policy,  
7 right?

8 A. Correct. The proposal that I'm  
9 referring to is -- is a policy change proposal.

10 Q. Okay. Well, notwithstanding this  
11 proposal, the current policy is that exempt  
12 salaried employees, if overtime is scheduled and  
13 authorized, they'll be paid overtime at some rate,  
14 right?

15 A. If it's scheduled and authorized and  
16 worked --

17 Q. Okay.

18 A. -- as scheduled.

19 Q. And what's the -- is there a certain  
20 dollar rate for overtime that's worked during the  
21 week?

22 A. There is.

23 Q. What is that?

24 A. I don't recall the exact rate.

1 Q. And there's a different rate if you  
2 work on Sundays or holidays?

3 A. Yes, there is.

4 Q. And since '99, that's changed over the  
5 years?

6 A. I believe it has, yes.

7 Q. It's gone up?

8 A. I believe so, yes.

9 Q. Has it gone up every year since 1999,  
10 as far as you understand?

11 A. I don't know.

12 Q. Is that what usually has happened  
13 since you been at Ford, that that overtime rate  
14 inches up every year?

15 A. No.

16 Q. No? Some years it doesn't?

17 A. No. And, in fact, in some years, it  
18 has gone down. In my 25 years with the company,  
19 that -- the overtime policy has -- has changed  
20 and -- and -- on a number of occasions.

21 Q. Do you remember the last year that the  
22 overtime rate went down for exempt salaried  
23 employees?

24 A. Well, I can recall that when I first

1 worked for the company, it was -- it was always for  
2 exempt salaried employees, a time and a half kind  
3 of rate with no cap for daily overtime or Saturday  
4 overtime and double time for holidays and -- and  
5 Sundays. And then it was reduced to a flat rate  
6 amount.

7 So there was a cap and there were  
8 times when -- there was a time early on when casual  
9 time was by written policy, was said to be capped  
10 at an hour, but that cap at some point was -- was  
11 taken out of the policy. There are -- there have  
12 been a number of changes over the years.

13 Q. All right. What's the -- is the  
14 current policy regarding casual time that you're  
15 expected to generally work a half hour casual time  
16 and about a half hour casual time after your shift?  
17 Have you heard that?

18 A. That's a -- that is a -- kind of a  
19 standard practice.

20 Q. Okay.

21 A. But to my knowledge, there's no  
22 requirement that it be limited to that amount.

23 Q. Has the standard practice been that if  
24 your casual time -- if you work at least one hour



1 over your eight-hour shift and you're an exempt  
2 salaried employee and it's authorized, that you get  
3 paid that hour if you work a full hour?

4 A. If you're authorized and scheduled for  
5 that -- that full hour, then you can be paid at an  
6 overtime rate for -- for that hour. However, it  
7 must be authorized and -- and scheduled and there's  
8 an expectation that salaried employees will --  
9 exempt salaried employees will -- will need some  
10 casual time.

11 Q. Okay. Is it fair to say it's not the  
12 policy at Ford that you only get paid overtime  
13 beyond your eight hours if you work at least two  
14 hours overtime that would include casual time?

15 A. I know of no written policy that says  
16 that.

17 Q. All right. Just to -- switching gears  
18 just slightly. We had talked about the gray  
19 brochure, Exhibit 2. And you had said that it had  
20 been -- it is your understanding that it had been  
21 paper clipped to the offer letters that were sent  
22 out to the various salaried employees in '99,  
23 right?

24 A. Correct.

1           Q.     So if someone in this case testifies  
2     that when they received their offer letter, Exhibit  
3     2 was -- the glossy brochure was attached, you  
4     would have no reason to disagree with that  
5     testimony?

6           A.     Unless I personally handed the offer  
7     letter to the person, I would not know if it was  
8     actually attached or not.

9           Q.     All right. But it was your  
10    expectation it was going to be attached?

11          A.     Yes.

12          Q.     Okay. So if someone said it was  
13    attached, you wouldn't disagree with that?

14          A.     Right. I could not disagree with  
15    that.

16                 MR. SIMON: Okay. All right. Let's  
17    just -- we're about to go through a lot of  
18    documents. Do you want to take a break?

19                 MR. WARDEN: Why don't we take a quick  
20    break?

21                 MR. SIMON: Sure.

22                 (Off the record: 9:22 a.m. - 9:36 a.m.)

23                 MR. VANWAY: Steve, before you get  
24    started, we -- you asked Mr. Warden some questions

1 about the overtime proposal or the change. And I  
2 know we have -- we have a protective order in this  
3 case. And I just wanted to put on the record that  
4 it's our position that his testimony and any  
5 questions and answers regarding that proposal which  
6 has not yet been disclosed to the general workforce  
7 would be covered by the protective order.

8 By virtue of Mr. Warden's position in  
9 HR, he knows some things that haven't been  
10 discussed yet. So I just wanted to make that  
11 clear.

12 BY MR. SIMON:

13 Q. Okay. All right. Let's see. As I  
14 said before we took a break, Mr. Warden, I'm just  
15 going to show you a series of e-mails. I'm going  
16 to try to move this expeditiously as possible, but  
17 take as much time as you need to read these  
18 e-mails. This is 66.

19 A. Okay. I've read it, reviewed it.

20 Q. All right. Would you agree with me  
21 that part of Exhibit 66, which is, for the record,  
22 is Bates stamped by Ford 1287 to 1288. Are these  
23 set of documents e-mail from you to certain people  
24 in the Ford organization sent on October 16th,

1 1998?

2 A. Yes.

3 Q. And it like looks you sent it to  
4 Mr. Hartman?

5 A. Yes.

6 Q. And I guess you cc'd Mr. Claus and you  
7 sent it to -- is that Mr. -- is that Jeff  
8 Faistenhammer?

9 A. Yes, it is.

10 Q. I don't know that we've identified  
11 him. Who's -- what's his -- what was his title?

12 A. Jeff Faistenhammer was a manager or  
13 director in power train operations with, I believe  
14 at the time, specific responsibilities that were in  
15 the hourly labor relations arena. I believe that's  
16 correct.

17 Q. Okay. Well, I was just going to find  
18 out who a few other people are up here. You'll see  
19 that your e-mail, looks like it was forwarded by  
20 Mr. Hartman and some other people at Ford?

21 A. Yes.

22 Q. So it was forwarded to Mr. Quinlan,  
23 who you've identified. Mr. Solberg, who's that?

24 A. Jim Solberg was an operational manager

1 in power train operations, may have been vice  
2 president for power train operations or a director.

3 Q. Mr. Cirbes?

4 A. Mr. Cirbes is a -- an employee  
5 relations -- human resources staff person,  
6 presently is the vice president for employee  
7 relations for human resources.

8 Q. Which one -- was Mr. Hartman your boss  
9 at the time?

10 A. Mr. Hartman was my -- Mr. Hartman  
11 and -- and Mr. Faistenhammer were functional  
12 directors for HR in power train operations for  
13 salaried personnel matters and human resources  
14 managers -- matters. My direct boss was Alain  
15 Claus.

16 Q. People who you reported to in HR at  
17 Ford were Hartman and Faistenhammer?

18 A. Functionally they -- they coordinated  
19 our efforts in -- in the field for HR matters.

20 Q. Okay. What were you -- were you  
21 subordinate to them?

22 A. Not as -- not as a direct report.

23 Q. Okay.

24 A. I -- I directly reported to Alain

1 Claus.

2 Q. Okay. All right. You had a chance to  
3 read your e-mail that you had sent. And would you  
4 agree that your e-mail kind of captures a lot of  
5 the concern and anxiety among salaried employees at  
6 the time about the future of the plant?

7 A. Yes, I -- I believe it does at that  
8 time, which was immediately after the announcement.

9 Q. Okay. And it's -- there's a line in  
10 the second full paragraph where your e-mail begins.  
11 It says, "Misunderstandings and false rumors had  
12 been rampant throughout the Plant, including such  
13 things as," and then you list what those rumors had  
14 been, right?

15 A. Yes, the types of rumors that I had  
16 been made aware of.

17 Q. And one of those rumors was that Ford  
18 employees will work only on CD4E and will be  
19 ineligible to work in CVT. You had heard that  
20 rumor?

21 A. I heard -- I had heard that from --  
22 and -- and mostly I had heard that from hourly  
23 employees.

24 Q. But some salary as well?

1 A. Yes.

2 Q. These captured the concerns of the  
3 salaried employees, does it not? I -- I say that  
4 because your e-mail begins with talking about  
5 informational meetings with salaried employees. So  
6 is that fair to say that this e-mail captures the  
7 concern of salaried employees?

8 A. This e-mail spoke to both salaried  
9 employees' and hourly employees' --

10 Q. Okay.

11 A. -- concerns.

12 Q. You say at the beginning of the e-mail  
13 that you and Alan -- and Mr. Claus had conducted  
14 informational meetings with salaried employees  
15 department by department and an additional meeting  
16 for all MR employees; that was accurate?

17 A. Yes.

18 Q. Okay. And the rumor about the -- not  
19 working on the CVT, I guess from your e-mail you  
20 tried to address that with the salaried employees,  
21 that they would have a chance to work on CVT?

22 A. Yes. The things that we addressed  
23 were that -- that employees working the JV would be  
24 working in the operations of the JV. No

1 distinction between CD4E and CVT.

2 Q. But maybe -- you might know. These  
3 words didn't come out of your mouth, but had you  
4 been part of meetings with salaried employees where  
5 people from management told the salaried employees  
6 this is an opportunity to get onto the CVT on the  
7 ground floor?

8 A. I -- I did not attend any meetings  
9 where -- that I recall where that specifically was  
10 said. However, the -- the CD4E was due to be -- be  
11 phased out and -- and eventually it was envisioned  
12 that the plant would be doing CVT production and  
13 the employees that worked in the plant would be  
14 working on CVT when that occurred.

15 Q. It was understood at that time in '98  
16 and '99 that CVT was the future of the plant?

17 A. Yes.

18 Q. And it still is?

19 MR. VANWAY: Objection. Answer to the  
20 extent you know.

21 A. I don't know what has happened since I  
22 left the plant.

23 Q. Well, have you communicated from time  
24 to time with people who are still at the plant in



1 Batavia?

2 A. Yes.

3 Q. I mean, having -- not directly having  
4 to do with this case as well, right?

5 A. On occasion, yes.

6 Q. All right. Who do you still talk to?

7 A. Hassan Saleh is a friend of mine.

8 Q. Anybody else in particular?

9 A. Other than as -- as with respect to  
10 this case, not that I can recall.

11 Q. All right.

12 A. Not that currently work at Batavia, at  
13 least.

14 Q. Well, have you talked to Mr. Saleh  
15 about this case outside the presence of your  
16 lawyers?

17 A. No, other than -- other than the fact  
18 that the case is -- exists.

19 Q. Other than a conversation with  
20 Mr. Saleh about the lawsuit, have you talked to  
21 Mr. Saleh about -- strike that.

22 Has Mr. Saleh communicated to you,  
23 perhaps before this lawsuit was filed, concerns  
24 that the salaried employees had that ZF Batavia was

1 taking away benefits that they had promised in '99?

2 A. Not that I recall, no.

3 Q. I mean, did he communicate any kind of  
4 discontent among the salaried workforce,  
5 specifically the Ford transitional employees before  
6 this lawsuit was filed?

7 A. Yes.

8 Q. What did he tell you? When did he  
9 tell you?

10 A. Well, he indicated to -- to me that  
11 salaried employees were -- were disappointed in --  
12 some salaried employees were disappointed in the  
13 way that the JV was developing, words to that  
14 effect.

15 Q. Was this last year, 2001? Do you  
16 recall?

17 A. I don't recall.

18 Q. But you understood -- you recall it  
19 being before this lawsuit was filed, which I'll  
20 tell you was filed in June of last year?

21 A. I -- I don't know, then, the dates of  
22 it.

23 Q. You believe your conversation with  
24 Mr. Saleh took place before you heard about the

1 lawsuit?

2 A. As far as I know, yes.

3 Q. Did he name names, as far as salaried  
4 employees that were upset?

5 A. Not that I recall.

6 Q. What did he mean or what do you mean  
7 when you say that they were upset about the  
8 direction of the JV?

9 A. That the -- they felt the management  
10 of the JV was not to their liking.

11 Q. He must have provided more details  
12 than that.

13 A. That the assignments, the way the  
14 organization was developing was perhaps not as it  
15 would have been, had the plant remained a Ford  
16 plant --

17 Q. Were there complaints --

18 A. -- essentially.

19 Q. Were there complaints about individual  
20 managers in ZF Batavia, like Len Sennish?

21 A. I heard of complaints about Len  
22 Sennish, yes.

23 Q. That he was -- complaints that he was  
24 a bit heavy-handed with the salaried employees?

1 A. I have heard that, yes.

2 Q. Okay. Complaints made by Dick Newark?

3 A. Not that I recall specifically.

4 Q. Any examples, Mr. Warden, of where  
5 people -- that had been forwarded to you by  
6 Mr. Saleh or perhaps others about Mr. Sennish being  
7 a bit heavy-handed with the salaried employees?

8 A. Examples? Not that I recall.

9 Q. Generally you had heard that  
10 description or something like that attributed to  
11 Mr. Sennish?

12 A. Yes.

13 Q. Was that a concern to you?

14 A. Well, the -- as a concern, I would be  
15 concerned if -- if employees were dissatisfied with  
16 their -- with their management or with their HR  
17 manager, regardless of who it might be.

18 Q. I realize you were in Batavia a short  
19 time, but did you kind of -- did you continue to  
20 have an interest even -- after you left in 2000,  
21 did you have an interest in seeing that the  
22 transition worked out the best possible at ZF  
23 Batavia?

24 A. Yes.

1           Q.     And you also -- you were part of  
2     numerous meetings with salaried employees and  
3     perhaps individual meetings that salaried employees  
4     that joined ZF Batavia -- I mean, was it important  
5     to you that what had been promised to them would  
6     actually occur at the plant after you left?

7           MR. VANWAY:  Objection.  Form,  
8     foundation.

9           A.     Would you restate the question,  
10    please?

11          Q.     Yeah, sure.  During your conversation  
12    with salaried employees as part of group  
13    meetings -- I mean, there were a lot of statements  
14    made about here's how your employment is going to  
15    be at ZF Batavia, right?

16          A.     There were discussions about what the  
17    initial compensation and benefits would be at -- at  
18    ZF Batavia, yes.

19          Q.     Okay.  And those -- and there was a  
20    package of compensation and benefits that were put  
21    together that is summarized in Exhibit 2, which is  
22    the gray, tri-fold brochure, right?

23          A.     Exhibit 2 is the summary that I'm  
24    familiar with, yes.

1 Q. Okay. And you know that in this  
2 summary brochure, it said that authorized overtime  
3 will be paid, right?

4 A. Let me refer to it --

5 Q. Sure.

6 A. -- what it says.

7 Q. Upper left-hand corner, third line.

8 A. Third line?

9 Q. Under where it says "salary."

10 A. It says "authorized overtime will be  
11 paid."

12 Q. And that's consistent with what you  
13 recall people being told during these informational  
14 meetings, right?

15 A. As far as I recall, authorized,  
16 scheduled and worked overtime was to be paid  
17 initially.

18 Q. That's how it was at Ford at the plant  
19 in '99 before the transition, right?

20 A. Yes.

21 Q. And people were told in the meetings  
22 that you attended, the salaried employees were told  
23 you're going to be paid overtime like you were at  
24 Ford?

1           A.     That was the impression that was  
2     given.  However, there were no guarantees that  
3     there would never be any changes to any  
4     authorized -- to any compensation or benefit plans,  
5     just as there's no guarantees at Ford that there  
6     would be no changes to compensation and benefit  
7     plans.

8           Q.     So you're saying like at the May 27th,  
9     1999 meeting, Mr. Kehr, he spoke at the meeting,  
10    right?

11          A.     Yes.

12          Q.     He never made -- he never said  
13    authorized overtime will be guaranteed while you're  
14    an employee at ZF Batavia, right?

15          A.     No.  Had he said that, I would have --  
16    I would have intervened.

17          Q.     I mean, did he -- but -- so it's  
18    significant to you that he never used those words,  
19    this is guaranteed.  This is always going to be  
20    forever, right?

21          A.     Please -- I didn't understand the  
22    question.

23          Q.     People were given the impression, you  
24    said, that the authorized scheduled, worked

1 overtime would be paid, just as they were at Ford,  
2 right? That was the impression given?

3 A. Under the terms of this summary, yes.

4 Q. And that's what was also told at the  
5 May 27th meeting, among others?

6 A. Under the terms -- under the terms of  
7 the benefits plans and compensation plans, yes.

8 Q. Okay. And -- I mean, Mr. Kehr never  
9 said like during the May 27th meeting, Hey, you all  
10 understand here that this is subject to change  
11 whenever we want? This is just what it's going to  
12 be initially, but if we want to change this next  
13 year, we're going to do that. Did Mr. Kehr say  
14 anything like that at the May 27th meeting?

15 A. I don't know if he did or not.  
16 However, had there been a statement guaranteeing  
17 this overtime, as an attendee of the meeting and  
18 knowing what I know about company's rights and  
19 practices with respect to compensation and  
20 benefits, I would have corrected that.

21 Q. Okay. You personally didn't draft  
22 Exhibit 2, right?

23 A. I -- I did review Exhibit 2 before it  
24 was finalized.



1 Q. Okay. There's a paragraph in the  
2 lower right that begins, "This brochure includes  
3 only the key features of the ZF Batavia benefits  
4 plans." Do you see that paragraph I'm referring  
5 to?

6 A. Yes.

7 Q. Do you know, did you author that  
8 paragraph?

9 A. I had input to that -- that paragraph,  
10 yes, and I did -- and I did make a recommendation  
11 in that paragraph.

12 Q. Okay. Who else was involved in  
13 authoring that paragraph or contributing to that  
14 paragraph?

15 A. The person who reviewed the draft with  
16 me was Tony DeShaw.

17 Q. Did Tony DeShaw write it?

18 A. I don't know.

19 Q. So you and Tony DeShaw reviewed this  
20 language that we're referring to?

21 A. I -- I reviewed -- I reviewed the  
22 document at his request.

23 Q. Okay. And what recommendation did you  
24 make for any language in this document, not just

1 the language in the last paragraph in the lower  
2 right-hand column, but any of it that you recall?

3 A. The recommendations that I made had to  
4 do with how wording was so that it would be  
5 understandable. When I reviewed it, there were  
6 some -- and I don't recall the exact specifics in  
7 the plan descriptions that are here.

8 But -- but there were some things that  
9 when I reviewed it, I didn't understand. So I  
10 asked questions about what does that mean, and then  
11 recommended some minor wording changes that I -- I  
12 believed would help to clarify what it meant.

13 Q. As you sit here today, can you recall  
14 any specific language in here that you know is your  
15 contribution?

16 A. One specific statement that was my  
17 contribution was that I recommended that a  
18 statement be placed in the brochure that said the  
19 plans are subject to change.

20 Q. All right. And you see where it says  
21 "ZF Batavia benefits plans" in the same paragraph?  
22 Right -- let me just -- it says in the first  
23 sentence, "This brochure includes one of the key  
24 features of the ZF Batavia benefits plans as

1 applicable to active Ford employees."

2 A. Yes, I see that.

3 Q. Okay.

4 A. That's the first two lines.

5 Q. And then it refers to -- in the second  
6 sentence, it refers to summary plan descriptions.

7 Do you see that there?

8 A. Yes.

9 Q. So certain of these benefits --  
10 there's benefit plans that are reflected in actual  
11 plan documents and summary plan descriptions,  
12 right?

13 A. Yes, that's what it says.

14 Q. Like 401K has a benefit -- has plan  
15 documents, right?

16 A. Yes.

17 Q. 401K has a summary plan description?

18 A. Yes. I presume that ZF Batavia's  
19 does.

20 Q. I mean, that's standard among -- in  
21 HR --

22 A. In my experience, yes.

23 Q. -- to have -- in fact, it's required  
24 by law, right?

1 A. As far as I know.

2 Q. Same thing, if you look at the left-  
3 hand column, you have some medical benefits listed  
4 there or described, right?

5 A. In the left-hand column,  
6 medical-dental employee contribution rates, is that  
7 what --

8 Q. Yes, yes.

9 A. -- you're referring to?

10 Q. Yes --

11 A. Yes.

12 Q. -- indeed. And those also are reduced  
13 to summary plan descriptions?

14 A. As far as I know, they are.

15 Q. All right. Certain -- all right. So  
16 when you're referring to benefit plans in that  
17 first sentence, and then later referring to plans  
18 described are subject to change, you were referring  
19 to those items here that can be reduced to a  
20 summary plan description or a plan document, right?

21 A. No.

22 Q. Why not?

23 A. "Plans described here are subject to  
24 change" applies to the entire document.

1 Q. Okay. It's your testimony that a  
2 merit increase program is a plan?

3 A. Yes.

4 Q. Is a merit increase program reduced to  
5 a summary plan description?

6 A. It has the -- the merit increase  
7 programs have a longer description than -- than a  
8 simple summary, so yes.

9 Q. But merit increase is reduced to a  
10 summary plan? I'm sorry. That was your testimony?

11 A. It's -- a merit increase plan has  
12 longer verbiage in the entire plan than it -- than  
13 these simple highlights that are -- that are  
14 included in a summary like this.

15 Q. Okay. All right. Things like merit  
16 increase program, unlike the health benefits, they  
17 don't have that same kind of summary plan  
18 description, right?

19 A. I think you'd have to ask your  
20 question differently because --

21 Q. You're familiar with the law ERISA,  
22 right?

23 A. To some extent.

24 Q. I mean, I understand you're not a

1 lawyer. But working in HR all these years, you've  
2 had to, perhaps unfortunately, gained some  
3 familiarity with that law?

4 A. Deal -- deal with ERISA to some  
5 extent, yes.

6 Q. Okay. And you know that those plans  
7 subject to ERISA have to have these summary plan  
8 descriptions?

9 A. Yes.

10 Q. And we could -- I don't even think I  
11 have them here, but I mean they -- these plans even  
12 say "summary plan description" on those documents,  
13 right?

14 A. I don't know.

15 Q. Well, all right. The merit increase  
16 program is different than something like the  
17 medical health benefits that has the summary plan  
18 description, right?

19 A. A merit increase plan has to do  
20 with -- with salaries. What was the other example  
21 you gave?

22 Q. Medical benefits.

23 A. Medical benefits have to do with --  
24 with the terms and conditions for payment by the

1 insurance company or the -- or the company for  
2 medical services. They're two different plans.

3 Q. Okay. That's all right. Any other --  
4 any other particular language in Exhibit 2 that you  
5 recall was your contribution?

6 A. Not specifically. I don't recall.

7 Q. Okay. Generally your goal in  
8 reviewing that with Mr. DeShaw was to make the  
9 brochure more readable?

10 A. I -- when I reviewed it, I had two --  
11 two things that I was concerned about. One was  
12 that it be understandable; the other was that it  
13 specifically state that the -- that compensation  
14 and benefit plans -- that benefit plans, which I --  
15 I include compensation as a benefit of employees,  
16 would not -- it would not leave the impression in  
17 the document that those were static. Because of my  
18 experience with Ford Motor Company, I know that  
19 they are not.

20 Q. Okay. You don't remember Karl Kehr  
21 saying in that May 27th meeting plans that I'm  
22 describing here today are subject to change, do  
23 you?

24 A. I don't recall.

1           Q.     I mean, you don't recall him saying  
2     anything along those lines, this is subject to  
3     change, it can change whenever we want, anything  
4     like that?

5           A.     I don't remember specific words that  
6     Karl Kehr used in a presentation, no.

7           Q.     Or any other kind of disclaimer. You  
8     don't recall him or any of the other speakers  
9     making that at that meeting?

10          A.     Again, I don't recall the specific  
11     words of any specific speaker at that meeting.  
12     So --

13          Q.     Okay.

14          A.     -- no, I do not.

15          Q.     I meant someone said that Karl Kehr  
16     and any of the other speakers at the May 27th  
17     meeting, they never said anything that these  
18     benefits were subject to change. If someone said  
19     that, you couldn't actually contradict it?

20          A.     No.

21          Q.     You agree, right?

22          A.     I agree.

23          Q.     Okay. I actually have one more  
24     question about Exhibit 66, the e-mail in front of



1       you. Let's see. Let me just find the line here.

2       All right.

3                       Well, on the second page of the  
4       e-mail, do you see where you have like some bullet  
5       points or they're dashes. It says, "Salaried  
6       employees may not transfer out of Batavia for the  
7       next 6 months." Do you see that line there?

8               A.       Which -- which of the sub-bullets is  
9       it?

10              Q.       It's -- well, it's -- of the -- we'll  
11       call it the dashes. It's the one, two, three,  
12       four -- sixth dash, begins "Salaried employees may  
13       not transfer out of."

14              A.       Yes.

15              Q.       Okay. And that is, in fact, what you  
16       were communicating to the employees at that time?

17              A.       Yes.

18              Q.       All right. Which is what you  
19       testified earlier, you thought it was about a  
20       six-month freeze?

21              A.       Yes.

22              Q.       All right. We're done with Exhibit  
23       66. Hand that to Mr. VanWay, if you like. Let's  
24       see. Need the court reporter to have the originals

1 here. That's important. All right. This is  
2 Exhibit 67. Tell me when you're done reading.

3 A. Oh, I have read it.

4 Q. My question, this again, this e-mail  
5 apparently is from Cindy Kreis to all the salaried  
6 employees at the Batavia plant on November 16th,  
7 '98; is that right?

8 A. Yes.

9 Q. And what was Cindy's -- Kreis'  
10 position at the time, as you recall?

11 A. Cindy worked in my department and  
12 Cindy had responsibility for communications in the  
13 plant --

14 Q. All right.

15 A. -- among other duties.

16 Q. Again, this e-mail confirms what we  
17 discussed just a moment ago that the salaried  
18 employees were told that there was a six-month  
19 freeze to being transferred out of the Batavia  
20 plant within Ford from October '98 to April '99,  
21 correct?

22 A. Yes, a six-month moratorium on  
23 salary --

24 Q. Okay.

1 A. -- transfers.

2 Q. All right. You can put that one  
3 aside. This is 68. Have you had a chance to  
4 review that?

5 A. Yes.

6 Q. And this is an e-mail that you sent on  
7 November 19th, 1998 to Mr. Faistenhammer and other  
8 people in the Ford organization?

9 A. Yes.

10 Q. Okay. If I understand right, and I  
11 think we have some of these documents, you had a  
12 question and answer session with the salaried  
13 employees; is that right, before this date?

14 A. I -- we had a -- we had a number of  
15 question and answer sessions and I believe that  
16 there were some before that date, yes.

17 Q. Okay. And there were concerns that  
18 people weren't getting the answers to their  
19 questions in writing. Is that the concern you were  
20 hearing from salaried employees?

21 A. That was one of the concerns  
22 expressed, yes.

23 Q. Okay. And what you understood they  
24 wanted in writing, they wanted to know specifically

1     what was going to happen if they joined ZF Batavia,  
2     what was going to become of them, right?

3           A.     Among other things, that was -- that  
4     was one of the things that the employees were  
5     concerned about.

6           Q.     All right. So you certainly  
7     understood when -- during your conversations and  
8     meetings with management about putting together a  
9     package of compensation and benefits for the ZF  
10    Batavia prospective employees from Ford, that this  
11    all needed to be put in writing to satisfy them,  
12    right?

13          A.     That was the -- that was the request  
14    from the employees.

15          Q.     All right. Right. For instance,  
16    Exhibit 2, which I said we'll come back to from  
17    time to time, the tri-fold, gray brochure, you  
18    understood certainly, based on the concerns you  
19    heard from salaried employees, that it was  
20    important that you explain what their package of  
21    compensation and benefits at ZF Batavia would be by  
22    putting them in writing?

23          A.     Yes. I -- I felt it was important  
24    that when we made offers to salaried employees,

1     that they -- that they have some reference as to  
2     what their initial compensation and benefits would  
3     be. The -- but this -- at the time of this e-mail,  
4     their -- we knew -- we didn't know anything about  
5     what the --

6             Q.     Right.

7             A.     -- compensation and benefits would be.  
8     That was -- that was part of the reasons, as I  
9     testified before, for the level of concern that  
10    I -- I believed was in the plant at the time.

11            Q.     Okay.

12            A.     And it was very difficult to get some  
13    salaried employees to understand that it takes time  
14    to develop such -- such a process.

15            Q.     Looking at your last sentence,  
16    Mr. Warden, you write in parenthesis, "(I don't  
17    like to think about the consequences....the  
18    reference to the hourly employees' status is  
19    clear)." What did you mean by that, if you recall?

20            A.     Well, I -- I did not know who  
21    submitted this, these questions. And -- and I did  
22    have some concern that if -- if the uncertainty  
23    continued, that there could be a salary-organizing  
24    drive among those employees who would be eligible

1 to be union employees.

2 Q. Okay. You thought that this might  
3 lead to your having to deal with another union at  
4 the plant other than the UAW, right?

5 A. I didn't think in those terms, no.

6 Q. Well, you thought they might organize  
7 as a union?

8 A. There might -- yeah, there could be a  
9 union-organizing drive.

10 Q. Okay. Put that one aside.  
11 Mr. Warden, this is a handwritten note from the  
12 same date. If it helps you to look at the previous  
13 e-mail, go ahead. Might cover some of the same  
14 material.

15 (Exhibit 69.)

16 A. Okay. I've read it.

17 Q. Just one moment here. What's this?  
18 Are these your handwritten notes?

19 A. No.

20 Q. Any idea who --

21 A. No.

22 Q. Any idea whether these notes are  
23 referring to a meeting that you attended?

24 A. I don't know.

1 Q. Do you know what these notes mean at  
2 all?

3 A. Only if I speculated. I do not know  
4 what the person who wrote these notes meant by the  
5 notes.

6 Q. Well, let's speculate a little bit.  
7 Who do you think may have written this handwritten  
8 note, based on what you see here?

9 A. I have no idea who wrote this.

10 Q. Okay. It has something to do with  
11 communicating with the salaried employees at the  
12 plant, right?

13 A. I -- I don't know if this has anything  
14 to do with communicating with salaried employees.

15 Q. Okay. Do you see where it says in the  
16 middle of the page "sign any agreement"?

17 A. Yes.

18 Q. Do you, based on because you were  
19 there at the time, even though you're not sure who  
20 wrote this note, do you have any idea what that  
21 might be referring to?

22 A. I don't know if I was there at the  
23 time.

24 Q. Oh, I just mean you were at the plant

1 at the time.

2 A. I was at the plant at the time.

3 Q. Yeah, but you don't know what that  
4 line means?

5 A. No.

6 Q. Move on to the next one. This one was  
7 already made an Exhibit 11 at an earlier  
8 deposition. Sorry I broke with tradition there.

9 MR. VANWAY: Killing more trees.

10 A. Okay.

11 Q. This is a memo dated December 1st,  
12 1998 that was distributed to all the Batavia  
13 salaried employees, right?

14 A. Yes.

15 Q. And did you author this?

16 A. I authored the -- the language and I  
17 believe I had it reviewed as well.

18 Q. Who would have reviewed it?

19 A. I would have sent it to a person named  
20 Ed Thompson at power train operations.

21 Q. What was Mr. Thompson's position?

22 A. Mr. Thompson was a salaried -- was a  
23 human resources associate in power train  
24 operations. I believe that I -- that I did send



1     this to power train operations before it was  
2     published.

3             Q.     Okay.

4             A.     Not certain of that, but I believe I  
5     did.

6             Q.     Was that the procedure for any formal  
7     written communication you sent to salaried  
8     employees, that you had to send it to Mr. Thompson?

9             A.     No.

10            Q.     Why did you send Mr. Thompson, you  
11     believe, this document?

12            A.     Because I would have been concerned  
13     about -- to make sure that what I was saying here  
14     was -- was accurate as to what people knew, what  
15     people knew at the time.

16            Q.     The people knew at the time that you  
17     sent this?

18            A.     Yes.

19            Q.     Well, is all the information here  
20     accurate?

21            A.     It's -- it's accurate for December  
22     1st, 1998.

23            Q.     Okay. Did concerns, things that are  
24     said here, did they change after December 1st,

1 1998? I just say that because you qualified your  
2 answer by saying it was accurate December 1st --

3 A. Yeah.

4 Q. -- 1998?

5 A. Yeah, some things did change. I don't  
6 know if they're referred to in this -- in this  
7 letter specifically. But what we knew in December  
8 of 1998 was different as time went on and -- and  
9 the benefits and compensation plans were -- were  
10 developed and finalized and up until the time that  
11 the joint venture agreement was signed by the two  
12 parties.

13 Q. The document references Sharonville,  
14 which we've talked about. The people who were not  
15 offered jobs that were at the Batavia plant who  
16 were salaried, they weren't offered positions to  
17 continue with the joint venture, did some of them  
18 go to Sharonville?

19 A. They may have, yes.

20 Q. Okay. And some of those people may  
21 have been people who were designated as not being  
22 very good performers?

23 A. I don't know the answer to that. I'd  
24 have to -- I'd have to see the individual's

1 records.

2 Q. Okay. Certain people who were not  
3 offered jobs to go to the ZF -- to join ZF Batavia  
4 in '99 were people who it was determined were not  
5 good performers?

6 A. I can't say that specifically.

7 Q. Okay. Well, can you say it generally?

8 A. Well, the -- the people that were made  
9 offers originally were people who were interested  
10 in -- in being considered for the joint venture  
11 first. So there were -- there were good -- better  
12 performers and lesser performers in that -- in that  
13 group.

14 There also were better performers and  
15 lesser performers in those who said, I don't even  
16 want to be considered. Don't make me an offer.

17 Q. Okay.

18 A. So -- so it's very difficult for me to  
19 say, unless I could see a specific individual's  
20 record, whether or not they were a better performer  
21 or a lesser performer.

22 Q. When you had talked to Mr. Saleh, you  
23 said about concerns among the salaried workforce,  
24 were some of the concerns that things that were

1       stated in the glossy, gray, tri-fold brochure that  
2       is Exhibit 2, that some of those things were being  
3       taken away from the salaried employees in 2001 and  
4       2002?

5             A.     Not that I recall.

6             Q.     You don't recall him -- there were any  
7       concerns about the overtime policy?

8             A.     I -- I'm aware that there are -- that  
9       there are concerns about the overtime policy  
10      through this -- through these proceedings.

11            Q.     Okay. Mr. Saleh hasn't communicated  
12      that to you?

13            A.     I don't believe he did, no.

14            Q.     Did he communicate any concerns about  
15      personal days being taken away?

16            A.     No. I -- I don't believe he mentioned  
17      any specific benefits or compensation.

18            Q.     Did he mention concern with the Ford  
19      transitionals, that they weren't being involved in  
20      the CVT?

21            A.     There were concerns about -- that he  
22      expressed to me about the development of the CVT,  
23      that the -- that there were issues with the  
24      transmission.

1           Q.     Did Mr. Saleh or someone else at the  
2     plant communicate to you that the Ford transitional  
3     employees were concerned that certain people in  
4     upper management had a negative view of Ford  
5     employees?

6           A.     Whether Mr. Saleh told me that  
7     specifically, I don't recall. But I -- I did hear  
8     that, yes.

9           Q.     Was that a concern to you?

10          A.     It's a concern to me if employees  
11     are -- are dissatisfied with their -- with their  
12     employment, yes, in general.

13          Q.     I mean, was it a concern to you  
14     specifically that you were part of the group that  
15     told Ford transitionals about what their future  
16     would be like at ZF Batavia, and then people are  
17     reporting back to you through whatever channels  
18     that the people at ZF Batavia have a bias against  
19     Ford employees? Was that a specific concern?

20          A.     Please -- please ask that question  
21     again --

22          Q.     That's fair.

23          A.     -- maybe in parts.

24          Q.     Yeah, that's fair. I mean, in the

1 meetings that you attended in '98, '99, no one ever  
2 said that -- no one ever made statements that  
3 reflected a bias against Ford employees, did they?

4 A. No.

5 Q. And so you can understand why we'd be  
6 concerned with someone after they joined the joint  
7 venture, that there's a perceived bias against Ford  
8 employees, right?

9 A. If they had that perception, yes.

10 Q. Okay. Do you understand that  
11 perception to be true?

12 A. I -- I do not because I don't know  
13 the -- what actually is happening in the joint  
14 venture at this time, other than from these  
15 proceedings. So I -- I have no firsthand knowledge  
16 of that.

17 Q. Okay. You don't have to actually read  
18 this entire set of documents, but I will -- you may  
19 if you wish. This is 70 and 71. This is 70.  
20 That's 70. This is 71. Take as much time as you  
21 need to familiarize yourself with the document.  
22 I'm just going to ask you just generally where  
23 these documents came from.

24 A. Okay. I'm familiar with this

1 document --

2 Q. Okay.

3 A. -- without reading it at the moment.

4 That's -- meaning 70. 71 I believe I have seen  
5 before, yes.

6 Q. Okay. Well, maybe I should -- let's  
7 see. Which -- I'm not sure which one came first  
8 here, which was the document, Deposition 71.  
9 That's the one that says "Questions Submitted For  
10 Salaried Employee Information Meeting." And for  
11 the record, 71 is a multi-page affair, starting  
12 with Ford Bates stamp 1377 through 1394.  
13 Deposition Exhibit 70 is Ford's 1368 through 1376.

14 Where did the questions come from in  
15 Deposition Exhibit 71, to your understanding?

16 A. In 71, the -- the questions were  
17 submitted to -- actually Cindy Kreis collected  
18 questions from employees so that we could  
19 understand what the concerns and -- and issues of  
20 employees might be and try to answer them to the  
21 best of our ability.

22 Q. And so it's your understanding that  
23 starting with -- let's see. -- Bates stamp  
24 document 1391 of Exhibit 71, that that's where the

1 answers begin to these questions?

2 A. Draft answers.

3 Q. Draft answers?

4 A. And as far as I know, they do relate  
5 to these questions, yes.

6 Q. And would've Exhibit 71 been  
7 distributed to salaried employees?

8 A. It may have been.

9 Q. Is there anything that would help you  
10 to know one way or the other?

11 A. There was a -- there were -- was one  
12 set of questions and I don't know if it was 71 that  
13 I wrote draft answers to, submitted them to power  
14 train operations HR for review and finalization  
15 previous to a meeting that was to be held at  
16 Batavia by Ford HR employees to speak specifically  
17 about Ford salaried employee concerns --

18 Q. Okay.

19 A. -- and this may have been those  
20 questions, but I'm not certain of that.

21 Q. All right. Certainly Exhibit 70,  
22 which is -- it's titled, "You Ask & We Answer."  
23 This is something that was distributed to the  
24 salaried employees?



1           A.     I believe it would have been, yes.

2           Q.     And so all that information in Exhibit  
3     70 is certainly is -- was accurate at the time?

4           A.     To the best of my knowledge, at -- at  
5     the time, this -- the answers in this Exhibit 70  
6     would have been correct for the period of time that  
7     it was -- that it was published, December 3rd,  
8     1998.

9           Q.     Okay. And certainly you did your best  
10    to give the salaried employees only the most  
11    truthful information, right?

12          A.     As I knew it, yes.

13          Q.     And you certainly understood they were  
14    entitled to truthful, accurate information about  
15    their decision to join ZF Batavia?

16          A.     Yes.

17          Q.     I mean, there's nothing that you  
18    certainly would have intentionally not told them,  
19    right?

20          A.     No, there is not.

21          Q.     Okay. Exhibit 71, I don't think I  
22    asked. But that's, to your understanding, the  
23    answers to the questions that we briefly  
24    referenced, those -- you certainly would have

1 expected those answers to be accurate at the time  
2 they were written?

3 A. At the time I wrote them, they were my  
4 understanding. I -- I -- but my draft was reviewed  
5 at power train operations HR and I don't recall  
6 whether or not it was changed.

7 Q. Okay. Did Deposition Exhibit 70, the  
8 other one, is that also one that you would have  
9 written, sent to power train for review and then  
10 was produced as the newsletter?

11 A. Yes.

12 Q. I don't know if it's clear from here.  
13 Do you know if Deposition Exhibit 70 is the final  
14 draft exhibit -- what's the exhibit? -- of Exhibit  
15 71?

16 A. I do not.

17 Q. Let's see. This is Exhibit 72.

18 A. Are we finished with these?

19 Q. Yes, yes. Please hand those to your  
20 attorney or give them to the court reporter, even  
21 better. Off the record for a second.

22 (Off the record: 10:28 a.m. - 10:29 a.m.)

23 (Rick Ervin entered the room.)

24 Q. All right. Have you had a chance to

1 read Deposition Exhibit 72?

2 A. I'm reading it now.

3 Q. Sure. Take your time.

4 A. Yes, I've read it.

5 Q. All right. This document reflects, I  
6 guess, a proposed memo that was to be sent to the  
7 salaried employees at the Batavia plant regarding  
8 the status of the transition, right?

9 A. That's how I read it, yeah.

10 Q. And apparently -- does it refresh your  
11 recollection at all where it says that Dave Adams  
12 is requesting this timing so that the letter  
13 precedes his planned discussions next week with  
14 salaried employees in Batavia? Do you see that  
15 line there?

16 A. Yes.

17 Q. Do you recall such a meeting that  
18 Mr. Adams had at the plant?

19 A. Yes, I recall that there was such a  
20 meeting.

21 Q. And was that sometime in December, I  
22 guess?

23 A. Yes. It was scheduled for the  
24 following week after this memo.

1 Q. Do you remember who attended that  
2 meeting? Was this all salaried employees in the  
3 plant had this meeting with Mr. Adams, do you  
4 recall?

5 A. I -- I do not recall.

6 Q. Okay.

7 A. And I do not believe that I was at  
8 that meeting.

9 Q. Okay. The memo comes from  
10 Mr. Faistenhammer, but you've reviewed it. Does it  
11 appear to have all the accurate information?

12 A. As far as I knew the information at  
13 that time, yes.

14 Q. Okay. This is 73.

15 A. This?

16 Q. Yeah.

17 A. Is there a second page?

18 Q. I don't have one. I'm not sure the  
19 next sequential document that was produced is the  
20 second page. I assume it doesn't because I would  
21 have otherwise brought it.

22 In any event, this e-mail that is  
23 Exhibit 73 is at least part of an e-mail that you  
24 sent on February 4th, 1999, right?

1 A. Yes.

2 Q. You were again explaining the  
3 situation regarding the salaried employees at  
4 Batavia, right?

5 A. As I understood it, yes.

6 Q. And then from -- I realize it looks  
7 like part of the e-mail is missing, but as far as  
8 what you wrote there, that appears to be accurate,  
9 what was going on at the time?

10 A. Yes, as far as I understood it.

11 Q. All right. And it's true that the  
12 salaried employees did not have a high trust level,  
13 that any offers from the JV will be competitive  
14 with Ford compensation and benefits. That was  
15 true, right?

16 A. Yes. It's -- as I testified  
17 previously, there had not at that point been a  
18 finalized compensation and benefits program  
19 developed and put into place. So, yes, there  
20 continued to be concerns from salaried employees as  
21 to what would be contained in that.

22 Q. All right. And you also mention in  
23 this last full paragraph there, you write, "A visit  
24 by senior HR people to talk with them would help,"

1 right?

2 A. Yes.

3 Q. And you were talking about Ford HR  
4 people, right?

5 A. Yes.

6 Q. Why was that?

7 A. Because the -- all employees were Ford  
8 employees at that time. I say that because I -- I  
9 don't recall that at that time we had -- we would  
10 have hired any JV employees, don't believe we had  
11 because we didn't have a way to pay them. So I'm  
12 pretty confident that that's true.

13 The -- and employees -- a number of  
14 employees didn't want to stay in the JV, but they  
15 wanted to remain Ford salaried employees. And so  
16 they were concerned about the process for  
17 transfers. And they were -- they were still  
18 concerned at this point about the freeze. They --  
19 and then how metering to other locations would  
20 occur, those kinds of concerns.

21 Q. All right. And you actually hadn't  
22 been in the plant very long at that time, right?

23 A. Not very long, no.

24 Q. And you thought that these salaried

1 employees who had been with Ford at least some  
2 period of time wanted to hear from other Ford HR  
3 people who they -- who they knew better?

4 A. Yes. Well, I -- the problem was that  
5 the HR people in the plant, the Ford HR people in  
6 the plant, we had responsibility for Ford HR in the  
7 plant. We did not -- we did not have firsthand  
8 knowledge of where other openings might occur, what  
9 a -- an agreed process would be for transferring  
10 people out of the plant and those kinds of things  
11 because they had to come from the power train  
12 operations organization and perhaps the  
13 manufacturing HR organization so that it could be  
14 accomplished in -- in a way that would be  
15 beneficial for the Batavia Ford employees.

16 Q. All right. Now, people -- you  
17 understood that at this time in February '99, that  
18 Ford was going to be a -- was going to be a  
19 minority owner of the joint venture, right?

20 A. I believe that I knew that at that  
21 time, yes.

22 Q. 49 percent for Ford and 51 percent for  
23 ZF --

24 A. Yes.

1           Q.     -- right? And you believe that it  
2     was -- one reason it was important to have Ford  
3     people come down to talk to the people was to  
4     reassure them that Ford was going to continue to be  
5     interested in the plant and for Ford generally to  
6     give the salaried employees some reassurances about  
7     what would happen when they were joining this new  
8     joint venture?

9           A.     The purpose of this memo was to  
10    request that Ford HR people come to Batavia to help  
11    the Ford salaried employees to understand the  
12    processes that were being developed that would be  
13    applicable to Ford salaried employees. Whether --  
14    and -- and that that did include that they would --  
15    that they would have the option of remaining Ford  
16    salaried employees and not accepting an offer  
17    from -- from the JV, if one was forthcoming --  
18    forthcoming.

19          Q.     Okay. I think we're done with that  
20    one. This is 74.

21          A.     This is the same memo, correct?

22          Q.     Whoops, it may be. One second. It  
23    very well may be. Let's -- let me take that one  
24    back for a minute and we'll redesignate 74.



1 All right. We are actually moving  
2 forward chronologically. Mr. Warden, this is  
3 Exhibit 74. This is an e-mail that's 74. We're  
4 withdrawing the designation 74 and the other  
5 document. This document is Bates stamped Ford 734  
6 will be Deposition Exhibit 74, I think.

7 A. Okay. I've read it.

8 Q. One second here. Is this an e-mail  
9 that you sent to Mr. Quinlan on March 2nd, '99?

10 A. Mr. Quinlan and Mr. Hartman.

11 Q. Okay. Is the information that you  
12 reported there accurate --

13 A. Yes.

14 Q. -- as you understood it at the time?

15 A. Yes, accurate as I understood it at  
16 the time.

17 Q. So it's safe to say as late as March  
18 2nd, 1999, there still was lots of uncertainty,  
19 fear among the salaried workforce at the plant what  
20 was going to happen to them?

21 A. In my view, there was.

22 Q. Take as much time as you need to  
23 review these, Mr. Warden. These are a series of  
24 e-mail on March 3rd, 1999. See if your name is on

1 here.

2 (Exhibit 75.)

3 A. I've read it.

4 Q. Mr. Warden, you didn't draft these  
5 e-mails, but maybe you can help me. The e-mail on  
6 the bottom from Richard Bair, do you see that?

7 A. Yes.

8 Q. Who is Richard Bair?

9 A. He was the operations manager for  
10 transmission operations in power train.

11 Q. Was he located in Batavia or not  
12 Batavia?

13 A. He -- he was located in Dearborn.

14 Q. Okay. And is Mr. Bair reporting the  
15 situation at the Batavia plant?

16 A. I am not familiar with this. I --  
17 it -- it would appear from my reading of it that he  
18 was reporting some information that he heard from  
19 salaried people at Batavia during a visit at  
20 Batavia. That would be my take on what I just  
21 read.

22 Q. And the comments that he lists in his  
23 e-mail, are those some of same comments you had  
24 heard, perhaps not specifically, but generally?

1           A.     A general flavor of the -- of the  
2     kinds of comments that I had heard.

3                   MR. SIMON:   Okay.   Done with that one.  
4     Actually probably you want to take a quick break?

5                   THE WITNESS:   Yeah.

6                   (Off the record:   10:45 a.m. - 10:58 a.m.)

7                   (Rick Ervin entered the room.)

8           Q.     All right.   13 and 14, these are just  
9     two e-mails a day apart or a series of e-mail.   If  
10    you want to read them both first, then I'll ask you  
11    questions, that's fine.   Take your time.

12          A.     Okay.

13                   MR. HUNTER:   Steve, while Mike is  
14     looking at that, I would point out that Exhibit 12  
15     is actually an exhibit used before with a second  
16     page on it.   It was missing the other page --

17                   MR. SIMON:   Ah-huh.

18                   MR. HUNTER:   -- so --

19                   MR. SIMON:   Good detective work there.

20                   MR. HUNTER:   -- for what it's worth.

21                   MR. SIMON:   Well, let's go back and --  
22     off the record for a second.

23                   (Off the record:   11:00 a.m. - 11:01 a.m.)

24          A.     Okay.   Do you want me to read 12 as

1 well?

2 Q. Well, just for the record, that  
3 Exhibit 12 is the first page of an e-mail that you  
4 saw before. And you recall we had a discussion,  
5 where's the second page. In fact, the second page  
6 is in front of you. That's Exhibit 12. So, for  
7 the record, we'll leave Deposition Exhibit 3 to  
8 still be Bates stamped 738, even though --

9 MR. VANWAY: 73.

10 Q. Deposition Exhibit 73 will be Bates  
11 stamped 738 alone. And, for the record, the more  
12 complete document is Exhibit 12, which has both  
13 pages. I think I'd asked you before about Exhibit  
14 12, which is your e-mail on February 4th, 1999,  
15 about whether that was accurate, whether those were  
16 concerns that you were hearing about from the  
17 salaried employees.

18 And now that you've had an opportunity  
19 to see the last paragraph or so in that e-mail on  
20 the second page, is your testimony the same?

21 A. Yes. It's -- it's accurate as to my  
22 understanding of the condition at the time.

23 Q. Okay. And your paragraph on the  
24 second page of Exhibit 12, that's -- that reflects

1 accurately what you believe the scheduling was  
2 going to be with Ford employees coming down to the  
3 plant and so forth?

4 A. At the time, yes.

5 Q. Okay. All right. I'm done with  
6 Exhibit 12, I think. Exhibit 13 is one you just  
7 had a moment to review. Do you see the line in  
8 there where you write that employees have no  
9 confidence in Mr. Claus, Dave Adams or me?

10 A. Why don't you help me? At the end,  
11 yes.

12 Q. What did you mean by that?

13 A. What I meant was that because of  
14 the -- because at this time, March 2nd of 1999, six  
15 months approximately after the JV announcement,  
16 there still was no definite process for -- for  
17 offers, okay? As I testified previously, the  
18 benefits and compensation was not developed for  
19 offers to Ford employees to join the JV, as I  
20 recall.

21 Secondly, there was concern about  
22 the -- about the transfer freeze, which was a  
23 six-month freeze. And, thirdly, there continued to  
24 be some concern about whether or not employees

1 would be permitted to go to other locations and --  
2 I believe as I -- as I mentioned before, a lot of  
3 employees continued to want to stay in the  
4 Cincinnati area and Sharonville was a preferred  
5 location if they were to remain Ford employees.

6 Q. Okay. And you thought that it was  
7 important that Ford employees outside the plant  
8 communicate these things to the salaried employees?

9 A. Yes, because -- and the reason that I  
10 said about the confidence in Alain Claus and Dave  
11 Adams and me is because we were inside the plant  
12 and we were communicating things that we knew at  
13 the time and some of the things were changing.

14 Q. Okay. Coming back to Sharonville,  
15 which you see comes up from time to time in these  
16 e-mails, ultimately what was decided was that if  
17 you weren't given an offer to join the ZF -- the  
18 joint venture or you were offered and declined, you  
19 were given an opportunity to interview with Ford to  
20 join some other plant?

21 A. Correct.

22 Q. And it's my understanding you were  
23 given a maximum of two interviews for opportunities  
24 within Ford?

1           A.     I don't recall specifically, but there  
2     was -- there were opportunities for interviews  
3     within Ford.

4           Q.     Okay.  If someone said that they were  
5     told that you only get two interviews, you would  
6     dispute that?

7           A.     I wouldn't dispute that they were told  
8     that.  I don't believe that that's completely  
9     accurate.

10          Q.     What do you think is accurate?

11          A.     I -- I believe that people had the  
12     opportunity to interview until a placement was  
13     worked out.

14          Q.     So it's not -- if someone said it was  
15     their understanding that they had a couple shots at  
16     transferring to another Ford plant if they didn't  
17     join the joint venture, if those didn't work out,  
18     they were out of the organization, you would say  
19     that that's -- that was not your understanding?

20          A.     There was no plan to terminate any  
21     Ford salaried employees unless they had an offer of  
22     employment elsewhere in Ford.  An interview and an  
23     offer are two different things, okay?

24                     An interview is -- is to explore --

1     you know, qualifications and opportunities, whereas  
2     an offer of employment is here's an offer to come  
3     to this location --

4             Q.     All right.

5             A.     -- of this other location.

6             Q.     Okay. So it's your understanding that  
7     the transitional -- excuse me. -- salaried  
8     employees in Batavia, '99, didn't join the joint  
9     venture because they weren't offered or they  
10    declined an offer, they ultimately, it was your  
11    understanding, would be able to stay within the  
12    Ford organization?

13            A.     Yes, unless they chose not to,  
14    which -- which means that they -- they declined  
15    offers of employment in other locations.

16            Q.     Okay. Had you ever heard that people  
17    were given options to transfer -- or excuse me.  
18    -- given options to interview at other locations,  
19    but even after the freeze was lifted, they couldn't  
20    interview at Sharonville?

21            A.     No.

22            Q.     You don't believe that is correct?

23            A.     No, I don't. If there was an opening  
24    at Sharonville and -- and we had people who



1 qualified for the opening, then I believe that  
2 after the freeze was lifted, they -- they had the  
3 opportunity to be considered in Sharonville.

4 Q. Okay. If someone testified that, in  
5 this case, that they were told, I got two  
6 interviews with Ford. If those don't work out, I'm  
7 out. And, oh, by the way, you can't interview with  
8 Sharonville, you would be surprised by that  
9 testimony?

10 A. I would be surprised by that  
11 testimony, yes.

12 Q. Would you have any idea where someone  
13 might have been given that understanding?

14 A. No.

15 Q. Staying with Exhibit 13, in the middle  
16 paragraph, it says, "I would expect serious  
17 reactions to transfers to Sharonville from other  
18 locations, which could include legal action and/or  
19 union activity among eligible employees. This is  
20 particularly risky given the protections for  
21 unionized hourly and salaried employees not  
22 afforded to nonunion salaried employees." Have I  
23 read that accurately?

24 A. Yes.

1 Q. What were you referring to there?

2 A. What I was referring to was a strong  
3 desire by Batavia Ford employees to be considered  
4 for all Sharonville openings, if there were  
5 openings. And -- and it goes back to the fact that  
6 many of our Batavia employees wanted to stay in the  
7 Cincinnati area as Ford employees.

8 Q. Okay. What did the reference of union  
9 activity -- the same thing we were talking about  
10 before the break -- that you thought the salaried  
11 employees might engage in some sort of union  
12 campaign?

13 A. My -- my thought process was the same,  
14 that because the protections afforded to the UAW  
15 employees were different than those to nonunion  
16 employees, that -- that there could be an  
17 organizing drive among eligible -- employees  
18 eligible to organize.

19 Q. Among the salaried workforce?

20 A. Yes.

21 Q. And what did you mean? What kind of  
22 legal action did you contemplate?

23 A. Well, I contemplated that -- that an  
24 employee might initiate a lawsuit against Ford --

1 Ford Motor for not transferring them to  
2 Sharonville.

3 Q. Okay. All right. And to avoid that  
4 kind of lawsuit, you thought it was important to  
5 reassure the employees in the plant at the time  
6 that they would not be forced out of the Batavia  
7 plant?

8 A. No. I -- I believed that it was  
9 important that Ford salaried employees have a  
10 definition as to what their -- what the company  
11 would do with respect to transfers.

12 Q. You thought it was important the  
13 company have some sort of uniform policy regarding  
14 the transfers?

15 A. Correct.

16 Q. Was there a uniform policy ultimately  
17 followed?

18 A. Yes.

19 Q. Wasn't there some handpicking of  
20 people from the Batavia plant to go to Sharonville?

21 A. "Handpicking" is -- is not a term that  
22 I would use. There were employees who were  
23 considered for openings at Sharonville and  
24 ultimately transferred to Sharonville because of

1 the -- their selection for the opening, based on  
2 their qualifications and -- and competitiveness for  
3 the opening.

4 Q. But you had some concerns that you  
5 wanted to make sure there was an orderly process  
6 where if Sharonville had an opening, that they  
7 communicated that to the Batavia plant and that  
8 Batavia plant management could sort out who was  
9 available, that sort of thing?

10 A. Yes, and it was not limited to  
11 Sharonville.

12 Q. Okay. And sometimes that uniform  
13 policy wasn't followed regarding people going to  
14 Sharonville?

15 A. Ford's -- Ford's policy on transfers  
16 was followed. My recommendation that all  
17 Sharonville openings be filled by Batavia employees  
18 was not put into place as part of the -- part of  
19 the process.

20 Q. Why not? Did anyone tell you?

21 A. Not that I recall.

22 Q. Well, why did you recommend that? I  
23 don't mean -- for the reasons you describe here?

24 A. I saw -- I saw my -- my role as

1 partially to assist in the -- in the transition of  
2 Ford salaried employees who wished to remain Ford  
3 salaried employees back into the Ford system in an  
4 expeditious way.

5 Q. Okay. Give Exhibit 13 back to  
6 Mr. VanWay. Now get to Exhibit 14, which you had  
7 an opportunity to review a moment ago. And, again,  
8 this e-mail reflects the e-mail on March 3rd, 1999  
9 that you had sent to Mr. Quinlan, as well as below  
10 that is an e-mail you had originally sent December  
11 20th, 1998, right?

12 A. Which exhibit are you looking at?

13 Q. Exhibit 14. Oh, I'm sorry. We're  
14 done with Exhibit 13. We're going to go back to  
15 Exhibit 14, which was an exhibit at an earlier  
16 deposition.

17 A. Okay. Let me -- let me take a look.

18 Q. Yeah, I was just pointing out there's  
19 two e-mails. One, March 3rd at the top, '99.  
20 Second one is also from you.

21 A. Okay. This is -- this is a -- an  
22 e-mail that I sent to Jeff Faistenhammer with a cc  
23 to George Lindstrom on December 20th, 1998, and  
24 then also forwarded to Jim Quinlan on March 3rd,

1 1999.

2 Q. Okay. And what you -- you see where  
3 it says there, "There also was a strong fear that  
4 any offers given to employees here from the JV will  
5 result in significant loss of retirement benefits  
6 and/or salaries." Do you see that there?

7 A. Please point it out to me.

8 Q. It's the first full paragraph under --  
9 where your e-mail starts in the middle. It  
10 starts -- see where it says, "Essentially these  
11 concerns were resolved"?

12 A. "There also was a strong fear that any  
13 offers given to employees here from the JV will  
14 result in a significant loss of retirement benefits  
15 and/or salaries."

16 Q. There you go. That last sentence, do  
17 you -- that's accurate, right?

18 A. Accurate on 12/20/98.

19 Q. Okay. And then you write below that,  
20 "We explained" and in parenthesis, (I believe the  
21 employees accepted, but this is not true. But if  
22 it were even attempted, no one would likely -- be  
23 likely to accept an offer from JV. And then  
24 replacements for all salaried employees would need

1 to be hired and trained. This could not be done in  
2 one year while maintaining production. Have I read  
3 that accurately?

4 A. That's what I wrote.

5 Q. And that was accurate at the time?

6 A. That was my understanding at the time,  
7 yes.

8 Q. Okay. And so just to kind of  
9 summarize, you tell me if I'm right here, is that  
10 the salaried employees were concerned that if  
11 they'd go with the JV, they're going to get  
12 something less than what they had before?

13 A. There was -- there was a concern among  
14 salaried employees that -- that the offers that the  
15 JV would make them would -- and I think -- I think  
16 it was referenced in an earlier exhibit -- would be  
17 token offers, that there really wasn't any desire  
18 from the JV for them to join the JV.

19 Q. All right.

20 A. And -- and I did not believe that to  
21 be true at the time. I still don't believe it to  
22 be true.

23 Q. Would you agree with what I said,  
24 though, they were concerned that what they were

1 going to be offered was something less than what  
2 they had at Ford, in terms of compensation,  
3 benefits?

4 A. I would say that there was that  
5 concern among some employees and that there also  
6 was acknowledgment that there would not necessarily  
7 be an exact duplicate of Ford compensation and  
8 benefits.

9 Q. All right. But it would be -- it  
10 wouldn't be something that was significantly less  
11 than what they had at Ford, in terms of  
12 compensation and benefits?

13 A. For the -- that's correct.

14 Q. Okay. And it was important to you, as  
15 you explain in this e-mail, that you had to tell  
16 these employees, look, the compensation, benefits  
17 you were offered would not be significantly less  
18 than what you have at Ford?

19 A. That they would be competitive to --  
20 to be real offers that the JV would want them to  
21 accept.

22 Q. Okay. And you had also explained here  
23 that you understood that if they weren't  
24 competitive, then people weren't going to accept



1       them and they weren't going to join the JV, right?

2           A.     Yes.

3           Q.     And if they didn't -- if these  
4       salaried employees didn't join the JV, I understand  
5       your second -- your last sentence to be correct,  
6       that there was no way that the joint venture could  
7       hire people off the street in that year to maintain  
8       production if those people didn't accept?

9           A.     Yes. I believed it would be very  
10       difficult for the -- for the plant to maintain its  
11       production while replacing the entire salaried  
12       workforce in one year.

13          Q.     So to avoid that very difficult  
14       situation, replacing the entire salaried workforce  
15       in that year, you conveyed here that it's very  
16       important that they are given a packet of  
17       compensation and benefits with the joint venture  
18       that is competitive?

19          A.     Correct.

20          Q.     And by "competitive," we also mean  
21       something that's not going to be significantly less  
22       than what they enjoyed at Ford?

23          A.     Correct.

24          Q.     You also understood that this -- from

1     talking about this before, that that needed to be  
2     communicated in writing?

3           A.     I -- I believed it needed to be  
4     reduced to writing. I -- I don't believe that I  
5     referred to that in this -- in this e-mail. Maybe  
6     I did.

7           Q.     In earlier e-mails, we've talked about  
8     the salaried employees wanted -- they wanted to  
9     understand what was going on. They wanted it in  
10    writing, right?

11          A.     Yes.

12          Q.     And so you certainly understood in  
13    conveying this competitive package of compensation  
14    and benefits to salaried employees had to be in  
15    writing?

16          A.     I believed that it needed to be  
17    reduced to writing so that the employees could  
18    review it.

19          Q.     All right. And then one of the -- and  
20    one of the ways you reduced it to writing was the  
21    gray, tri-fold brochure that is Exhibit 2?

22          A.     That's what the JV decided to use,  
23    yes.

24          Q.     Okay. Maybe you will agree with this

1 kind of characterization. Basically you had a lot  
2 of skeptical, suspicious employees who were at Ford  
3 who needed a lot of reassurance about what their  
4 compensation and benefits were going to be at ZF  
5 Batavia if they joined; is that fair?

6 A. What their offer would be with ZF  
7 Batavia, that's correct.

8 Q. I mean, they needed reassurance and  
9 they needed it in writing?

10 A. They -- yes, they needed to be able to  
11 understand what -- if they were given an offer for  
12 a -- for employment at ZF Batavia and to leave Ford  
13 employment, then they needed an offer that -- that  
14 they could -- that they could review and understand  
15 what the contents of the offer was.

16 Q. When you were -- getting back to  
17 Exhibit 14, when you were having these  
18 conversations with salaried employees and you were  
19 explaining to them that, look, it's going to be a  
20 competitive offer because otherwise you wouldn't  
21 join it. I mean, did you say during those  
22 conversations -- you know, what we offer you is  
23 just going to be an initial package that is subject  
24 to change? I mean, did you ever say anything like

1       that at all?

2               A.     I -- I did say that and I can recall  
3       specifically saying in -- in at least one of the  
4       informational meetings and probably more, and I  
5       also advised Alain Claus to say the same thing, was  
6       that no compensation and benefit program is -- is  
7       guaranteed for the future. They're subject to  
8       change by any employer. And I -- and I  
9       specifically stated that that was true of Ford  
10      Motor and other employers.

11             Q.     What meeting specifically, Mr. Warden,  
12      did you say this?

13             A.     One of the informational meetings that  
14      we had with the employees. And I recall that it --  
15      also covered in that meeting was an explanation  
16      from Alain Claus as to how a CVT works, in general,  
17      versus a geared transmission. It was one of the  
18      very earliest meetings that we had, informational  
19      meetings with salaried employees.

20             Q.     So probably would have been before  
21      this 12/29 e-mail?

22             A.     Probably was.

23             Q.     So this is a meeting -- all right.  
24      Mr. Claus is there; you're there. What salaried

1 employees are there at this meeting that you're  
2 describing?

3 A. All salaried employees were invited to  
4 our informational meetings. I don't recall who --  
5 specifically who attended, but there was always  
6 quite good attendance.

7 Q. Okay. Are we talking about dozens of  
8 people, hundreds of people?

9 A. Yes, dozens.

10 Q. Do you remember --

11 A. Twenties of people, I would say and  
12 more.

13 Q. Do you -- I mean, you don't  
14 specifically recall if Mr. Whisman or Mr. Ervin  
15 were there, do you?

16 A. I do not.

17 Q. I mean, you don't recall any  
18 particular salaried employee being there, do you?

19 A. I do recall at least one, yes.

20 Q. Who's that?

21 A. An employee by the name of Grimmer  
22 because he asked a lot of questions.

23 Q. I think I've seen his name. Is that  
24 Jim Grimmer?

1 A. Yes.

2 Q. Do you know if he's still with the  
3 organization?

4 A. I do not know.

5 Q. Did Mr. Grimmer -- I think I've seen  
6 G-R-I-M-M-E, is that him?

7 A. Grimme, yes. Yes, that's correct. It  
8 is Grimme.

9 Q. I mean, when you said this thing that,  
10 look, these are -- nothing is guaranteed, do you  
11 remember Mr. Grimme responding?

12 A. Well, I -- I recall him being at the  
13 meetings. I don't remember him responding to  
14 those -- that specific statement.

15 Q. All right. I mean, I guess what I'm  
16 wondering is if you're -- you have this group  
17 that's very suspicious and then you're telling  
18 them, Hey, none of this is guaranteed. I mean, did  
19 you get any negative reaction from any of the  
20 salaried employees when you told them that or if  
21 Mr. Claus told him that?

22 A. The atmosphere sometimes was negative  
23 in the meetings, okay? So -- and -- and my belief  
24 is that the atmosphere was -- was negative because

1 of the uncertainty among the employees as to -- as  
2 to what the processes would be with respect to  
3 offers for them to join the JV and/or transfers to  
4 other locations.

5 And so because we had no specifics to  
6 provide at those early dates, there was -- there  
7 was negativity in the room. You -- okay? And --  
8 and so there would be comments and questions that  
9 had a negative slant to them.

10 Q. And so people may have -- are you  
11 saying people may have reacted negatively to your  
12 statement that this package isn't guaranteed in the  
13 future?

14 A. They may have.

15 Q. You don't specifically recall any --

16 A. Specifically I don't -- I don't recall  
17 a specific question or comment that was negative  
18 about that.

19 Q. Now, was the May -- moving forward,  
20 that's kind of '98, we figure. Moving forward to  
21 May 27, '99 -- I think I have the right date of  
22 this larger meeting where Mr. Kehr was there. I  
23 mean, do you remember, was that meeting also fairly  
24 negative among the salaried employees or was that

1 less so?

2 A. I didn't -- I didn't see it as a  
3 negative atmosphere in the meeting, no.

4 Q. And you had said you had told  
5 Mr. Claus that he should say in a meeting, he  
6 should point out that --

7 A. That he should be careful not to --  
8 not to give the impression of guarantees that  
9 things would not change. And he was astute about  
10 that as well because he had experienced changes in  
11 Ford compensation and benefits over his career,  
12 which was at least as long as mine.

13 Q. Did you tell Mr. Kehr that he should  
14 be careful when he was speaking at the May 27th  
15 meeting?

16 A. Karl Kehr was aware that -- that --  
17 there -- that compensation and benefit plans are  
18 subject to change. I don't recall specifically  
19 telling him to -- or recommending to him at least  
20 that he -- that he do that, no.

21 Q. Okay. I think we're done with 14. Do  
22 you know anything about a Julie Howard? Do you  
23 know who that is?

24 A. I recall Julie Howard, yes. I recall



1 her. I met her a couple times.

2 Q. Was she -- she was a -- I think she  
3 was like a CVT director or something. Does that  
4 sound --

5 A. I don't know what her title was.

6 Q. It's my understanding that she was a  
7 Ford transitional employee, meaning she was a Ford  
8 employee who became a ZF Batavia employee at the  
9 Batavia plant, and then transferred back to Ford;  
10 is that your understanding?

11 A. I -- I know that Julie Howard was a  
12 Ford employee. She came to ZF Batavia. She was --  
13 she was an engineering manager type employee. I  
14 don't know what her specific title was. I -- I  
15 recall that -- that there was an offer that was  
16 being developed for her. I don't know if -- I  
17 don't know specifically if it was ever presented or  
18 if she accepted such an offer.

19 Q. Okay. All right. Were you aware at  
20 the time of the transition in '98, '99, that Ford  
21 employees -- salaried employees made well above the  
22 market rates for that kind of market?

23 A. I -- I was aware that they made above  
24 the market rate for the Cincinnati area, yes.

1           Q.     Okay. Was that -- you were in  
2     meetings, I guess, with Karl Kehr and Dave Adams,  
3     Mr. Claus, other people from upper management in  
4     the plant at the time, right, where you discussed,  
5     I think, salaried employees and the package of  
6     compensation, benefits. I mean, just generally,  
7     that's true, right?

8           A.     Yes.

9           Q.     And certainly Mr. Adams and Mr. Kehr  
10    were aware of this fact that Ford employees --  
11    salaried employees made more than the average for  
12    Cincinnati area?

13          A.     I know Karl Kehr was. I -- I don't  
14    know about Dave Adams specifically.

15          Q.     Okay. Were there any concerns or  
16    comments raised at one of these meetings that you  
17    attended or overheard or perhaps somebody told you  
18    secondhand that there was kind of a goal of  
19    bringing those salaries more in line with what the  
20    market rate is over a period of time, once they  
21    joined the joint venture?

22          A.     Once who joined the joint venture?

23          Q.     Once the Ford transitionals joined the  
24    joint venture, that over a period of time, their

1 salaries would be more in line with the market rate  
2 for Cincinnati?

3 A. No, I don't recall.

4 Q. Was there any concern that people who  
5 they'd hire off the street who they call the ZF  
6 Batavia new hires would be making less than what  
7 the Ford transitional employees would be making?

8 A. I -- I don't know that there was a  
9 concern about that. The system that was designed  
10 ended up with a recognition that the ranges for new  
11 hire employees would be at lower levels than the  
12 ranges for transitional employees.

13 Q. Was there any concern about going  
14 forward that -- a concern that you heard that going  
15 forward, you're going to have two tiers, people who  
16 are Ford transitional who were making this and the  
17 ZF Batavia new hires were making a different amount  
18 of money?

19 A. There was recognition of that fact.  
20 I -- I don't know of concerns about that fact. It  
21 was -- it was how it was designed.

22 Q. Okay. Okay. This is Deposition  
23 Exhibit 76. This is -- is a memo dated March 15th,  
24 1999. Take as long as you need to review this

1       brief memo, Mr. Warden.

2               A.     Okay. I've read it.

3               Q.     All right. Is this -- did you draft  
4       this memo?

5               A.     No.

6               Q.     Do you know if this memo was  
7       distributed to salaried employees?

8               A.     No, I don't.

9               Q.     Is this information accurate,  
10       specifically all employees electing to remain with  
11       Ford will be given a one-time offer of employment  
12       at another Ford location? Do you know if that was  
13       what happened?

14              A.     I -- I believe that that is not what  
15       happened.

16              Q.     You believe -- what's your  
17       understanding?

18              A.     My understanding is that there were  
19       employees who had multiple offers.

20              Q.     Your understanding was they get as  
21       many offers as they cared to entertain and --

22              A.     No.

23              Q.     Well, was there --

24              A.     I'm sorry to interrupt.

1 Q. No, go ahead. How many offers could  
2 they have?

3 A. This, as I read this, this is a  
4 statement of the -- the general Ford process, okay?

5 Q. Mm-hmm.

6 A. Ford policy with respect to -- in a  
7 reduction in force, the rights that it -- that Ford  
8 affords to employees, the -- to have the ability to  
9 transfer, okay? In -- at ZF Batavia, at least  
10 while I was there, we did not require that  
11 employees be terminated if they were given a  
12 one-time offer of employment at another Ford  
13 location and turned it down. There was no such  
14 case that I recall at -- at ZF Batavia.

15 Q. So I guess -- but how many could they  
16 get?

17 A. I don't recall that there was a  
18 number. There may have been, but I don't recall.

19 Q. Okay. We're done with that document.  
20 This is 77.

21 A. Okay. I've read it.

22 Q. Who was Greg Battle, do you know?

23 A. Greg Battle was a -- I think he was an  
24 MPS in the production organization at Z -- at

1 Batavia, was a Ford employee.

2 Q. Okay. And this is -- ultimately this  
3 is -- this is an e-mail chain that you forwarded  
4 to, I guess, Mr. Kehr on May 19th, 1999?

5 A. Yes.

6 Q. All right. And I guess it had been  
7 forwarded -- I guess it's from -- it was from  
8 Mr. Battle to, I guess, Glen Marinetti and Jerry  
9 Priest; is that right?

10 A. That's how it reads, yes.

11 Q. And then on to you, which you  
12 forwarded to Mr. Kehr?

13 A. Correct.

14 Q. All right. Do you know what  
15 Mr. Battle was talking about? Was that a -- when  
16 he writes, I polled the group leaders concerning  
17 the benefits, I mean, the things that follow that,  
18 does that mean anything to you?

19 A. Well, as I read this, it -- it appears  
20 that there were questions that people had about  
21 what the compensation and benefits would be at ZF  
22 Batavia if they were given an offer. That's what I  
23 believe this refers to.

24 Q. Are these concerns of salary people or

1 the union workers, because it says in Mr. Battle's  
2 subject line, "U Concerns"?

3 A. Well, group leaders are salaried  
4 employees, so I presume it means group leaders.

5 Q. What about "U Concerns," does that  
6 mean anything to you?

7 A. U Concerns?

8 Q. See where it says, From Greg Battle,  
9 subject line?

10 A. Oh, "U" is unclassified.

11 Q. Okay.

12 A. So it's not confidential is -- he  
13 didn't --

14 Q. Oh.

15 A. He didn't make this confidential  
16 e-mail.

17 Q. All right. And it says you forwarded  
18 this to Mr. Kehr. I don't know if you specifically  
19 recall. Do you know if you tried to address these  
20 concerns that Mr. Battle had ultimately forwarded  
21 to you?

22 A. I don't recall that I talked with Greg  
23 Battle about these concerns myself, no.

24 Q. Do you know --

1 A. I don't believe I did.

2 Q. Where it says -- references authorized  
3 overtime, do you see that in caps down near the  
4 middle? It says "authorized OT." What does that  
5 mean?

6 A. Yes.

7 Q. I mean, do you know what they were  
8 specifically referring to?

9 A. I don't know, but this appears to be  
10 questions regarding the summary of -- of benefits  
11 from Exhibit 2.

12 Q. So you believe that -- okay. So you  
13 believe that Exhibit 2 had been distributed before  
14 May 18th, 1999?

15 A. With this level of detail, I would  
16 expect that that's a reasonable expectation, yes.

17 Q. Okay. We're done with that one. Is  
18 it your understanding that at the -- during the  
19 transition, if there were employees who were at  
20 Ford and eligible for retirement, they could go  
21 ahead and retire from Ford and join the joint  
22 venture?

23 A. Some employees could and did, yes.

24 Q. Okay. And was there a discussion



1 about whether that option could be available to  
2 employees who might be eligible for retirement two  
3 or three years down the road after joining the  
4 joint venture?

5 A. Yes. I believe it was for up to three  
6 years, I think is -- and that was a later  
7 development.

8 Q. It was your understanding -- you're  
9 saying at some point during the discussion about  
10 the joint venture, the transition, it was decided  
11 that if someone was eligible for retirement under  
12 the Ford plan, within three years of joining the  
13 joint venture, they could go ahead, retire from  
14 Ford and continue working at ZF Batavia?

15 A. My recollection is that it applied to  
16 people who would -- who -- who were offered such an  
17 opportunity and who would attain eligibility for  
18 retirement under -- under the Ford GRP within what  
19 we expected to be the transition period, which was  
20 two to three years.

21 So I -- I do not recall that there was  
22 an open-ended -- and, in fact, I specifically  
23 recall that it was not an open-ended offer.

24 Q. Okay. Does -- I think we need a

1 second copy of Exhibit 2. Do you have one there?  
2 Exhibit 2, on the -- what's on the left-hand side  
3 of the first page? Other page. Even though you've  
4 acknowledged that what's on the first page  
5 technically wasn't part of the first page of the  
6 tri-fold brochure, but putting that aside, Exhibit  
7 2, first page, left side, does that refer to this  
8 conversation -- this issue we're talking about with  
9 being able to retire and being able to join the  
10 joint venture?

11 A. No.

12 Q. It doesn't?

13 A. No. This was -- this was information  
14 for any employee who joined the joint venture and  
15 qualified for Ford general retirement plan benefits  
16 as described herein.

17 Q. What I understood you to say is  
18 that -- strike that.

19 It says there on the left-hand column,  
20 it says -- see where it says "Ford General  
21 Retirement Plan Benefits"?

22 A. Yes.

23 Q. It says, Employees immediately  
24 eligible to retire" -- Employees who are eligible

1 to retire immediately from the Ford General  
2 Retirement Plan, GRP, and receive an offer of  
3 immediate employment by ZF Batavia may elect to  
4 begin GRP benefit payments and also accept  
5 employment with ZF Batavia. That's -- have I read  
6 that right?

7 A. Yes.

8 Q. Okay. So that's -- that is accurate  
9 and some people did go ahead and retire and then  
10 join ZF Batavia, correct?

11 A. Correct.

12 Q. And what I think you were saying a  
13 moment ago is what was decided ultimately was  
14 during the transition period, which was two to  
15 three years after '99, if anyone who had joined the  
16 joint venture was eligible to retire under the Ford  
17 plan, they could go ahead and do so and continue to  
18 work at ZF Batavia?

19 A. If they were -- if they were offered  
20 such employment and -- this is my recollection five  
21 years later --

22 Q. Yes.

23 A. -- okay? And they became eligible to  
24 retire within the transition period, then they

1       could be given and accept offers as ZF Batavia new  
2       hires, so not subject to these benefits and  
3       compensation anymore at ZF Batavia.

4             Q.     Okay. Does that at all contradict  
5       what's in that second line, right below where I  
6       read where it says, Otherwise an employee may not  
7       in the future begin benefit payment from the GRP  
8       until they have separated employment from ZF  
9       Batavia. What you described, is that kind of an  
10      exception to what's there or --

11            A.     It's different than that.

12            Q.     Okay.

13            A.     This says, "Employees immediately  
14      eligible to retire." So -- so that's employees who  
15      retired right at that time, and then they -- they  
16      were offered -- they -- some were offered  
17      employment as -- as ZF Batavia new hires.

18            Q.     Okay. Well, it says, "Otherwise  
19      employed may not in the future begin benefit  
20      payments from the GRP until they have separated  
21      employment from ZF Batavia." Is it your  
22      understanding that there were people in the future  
23      who did begin benefit payments under the Ford plan  
24      and they continue to work at ZF Batavia?

1 A. Not as transitional employees.

2 Q. Okay. They had to be hired as ZF  
3 Batavia new hires?

4 A. Yes.

5 Q. But they could continue --

6 A. At least that's my recollection and  
7 understanding.

8 Q. Oh, okay. I see. All right. Well,  
9 is it your understanding that this sentence in the  
10 brochure when it says, "until they have separated  
11 employment from ZF Batavia," perhaps did that mean  
12 that you just had to merely go through the process  
13 of becoming a new hire at ZF Batavia after you  
14 retired from Ford and then you would basically  
15 continue doing the same job? Is that what, kind  
16 of, you had anticipated?

17 A. Yes. You could do the same job or you  
18 could be offered a different job.

19 Q. Okay. But you didn't have to like  
20 leave the company for six months or something?

21 A. No.

22 MR. VANWAY: Which company?

23 MR. SIMON: ZF Batavia.

24 MR. VANWAY: You're asking him what ZF

1 Batavia's rule was? I'm not clear on your  
2 question.

3 Q. I have a question about that sentence,  
4 this paragraph that we've been talking about. I'm  
5 just trying to understand what you thought this  
6 meant.

7 A. Well, with respect to the question  
8 that you asked, my understanding was that ZF  
9 Batavia was willing to rehire some people, okay,  
10 after they retired from Ford Motor. And in those  
11 cases, the people would be -- their compensation  
12 and benefits would be essentially the new hire  
13 compensation and benefits.

14 Q. Okay.

15 A. Okay.

16 Q. But they could -- the critical part  
17 for them, they could actually begin receiving their  
18 retirement benefits under the Ford plan?

19 A. Correct, that was my understanding.

20 Q. And that would be a period of -- so  
21 that's how you -- is that how you read, then, this  
22 sentence, this paragraph --

23 A. Yes.

24 Q. -- Exhibit 2?

1           A.     I think we're talking about two -- two  
2     separate things, though, okay? I was talking about  
3     the transition period --

4           Q.     Mm-hmm.

5           A.     -- all right? And if an employee  
6     retired under the general retirement plan, then  
7     they were no longer Ford transitional employees.  
8     And that was my understanding with respect to this  
9     document, with respect to anyone who retired from  
10    Ford Motor Company through the GRP, if ZF Batavia  
11    offered and they accepted a -- an offer of -- of  
12    employment thereafter.

13          Q.     Okay. Was there any reason that you  
14    wanted to have -- you talked about they had to  
15    retire during the transition period. I mean, is  
16    there any reason that someone suggested that they  
17    couldn't retire if they were just outside the  
18    transition period and continue to work at ZF  
19    Batavia?

20          A.     Well, it was ZF Batavia's request that  
21    we consider that, so that more employees might  
22    be -- who the -- who the joint venture wanted to  
23    employ as joint venture employees might be willing  
24    to -- to remain with the joint venture.

1           Q.     Okay. Do you know how many employees  
2     retired during the transition period at ZF Batavia,  
3     retired from Ford and then continued to work as ZF  
4     Batavia new hires?

5           A.     My recollection is there were about 10  
6     that were eligible, somewhere around there. And I  
7     do not recall how many actually were re-employed.

8           MR. SIMON: I only have a few more  
9     documents. They're thick documents, but I only  
10    have a few documents, so we're actually much closer  
11    than I -- might otherwise appear.

12          THE WITNESS: And how about if we take  
13    about five minutes?

14          MR. SIMON: Sure, sure.

15          (Off the record: 11:49 a.m. - 12:02 p.m.)

16          MR. SIMON: Back on the record.

17          THE WITNESS: Okay. Earlier I -- I,  
18    in responding to one of your questions, I said that  
19    an employee who left Ford employment through  
20    retirement would be rehired as a -- as a -- could  
21    be rehired as a ZF employee. That's inaccurate.  
22    That's inaccurate for ZF -- for transitional  
23    employees or for new hire employees.

24                 When an employee retired from Ford, if



1 they were given an offer and accepted it, they  
2 would be hired as ZF Batavia employees because they  
3 never had ZF Batavia employment in the first place.  
4 So rehire would not make sense.

5 Q. All right. So the people who -- you  
6 believe there were 10 people, you said, who were  
7 eligible to retire from Ford after the joint  
8 venture had started. Are you saying those people  
9 had remained Ford employees the whole time or were  
10 they transitional employees?

11 A. I think I said that I -- my  
12 recollection was there were about 10 employees who  
13 could get to retirement with Ford during the  
14 transitional period, which was envisioned to be two  
15 to three years. And that if they retired from Ford  
16 and were made an offer to -- to go to work for the  
17 JV, then they -- if they accepted such an offer,  
18 the correct -- the correct statement would be that  
19 they would be hired by the JV as new employees.

20 Q. Okay. I'm switching gears entirely.  
21 I'll just show you my copy. This is Exhibit 4 of  
22 the meeting that was held on May 27th, 1999.  
23 You've seen Exhibit 4 before?

24 A. Yes.

1           Q.     My question is, were the pages that  
2     are reflected beyond the cover page there, were  
3     those part of a slide show or some sort of a  
4     PowerPoint presentation that you recall?

5           A.     My recollection is that there were --  
6     there were slides --

7           Q.     Okay.

8           A.     -- that were -- well, I'm certain that  
9     there were slides that were used in the  
10    presentation.

11          Q.     And it's --

12          A.     And -- and I do not know if these are  
13    all of them or --

14          Q.     Sure.

15          A.     -- all of them were shown.

16          Q.     Was a hard copy made of those  
17    materials and distributed to employees who wanted  
18    them?

19          A.     I don't recall specifically whether --  
20    whether or not it was.

21          Q.     And we've had in this case -- I think  
22    we had a number of -- we produced a number of those  
23    materials and they came from my clients. So, I  
24    mean, do you have any reason -- do you know my --

1     why -- if someone said that they received a copy --  
2     a hard copy of those materials in the May 27th  
3     meeting -- I mean, would you have a reason to  
4     disbelieve them?

5             A.     I would not dispute that.

6             Q.     I mean, did you ever put out an  
7     instruction to Mr. Kehr or others, these are not to  
8     be printed out in hard copy, distributed or  
9     anything like that at all?

10            A.     I don't -- I don't believe that I ever  
11     put out any instruction about it.

12            Q.     Okay. To the best of your  
13     understanding, what was conveyed at the May 27th  
14     meeting was accurate information about the  
15     compensation and benefits package that was being  
16     offered to the transitionals, right?

17            A.     As far as I understand it, yes.

18            Q.     And I know you haven't read every page  
19     there. Well, as you recall, the information that  
20     was put on the slide show was accurate, too, right?

21            A.     As far as I knew, yes.

22            Q.     Okay. I can take that back from you.  
23     This is Exhibit 6. The question just is, is that a  
24     memo that you authored or you participated in the

1 authorship of?

2 A. I've read it.

3 Q. Okay. Did you author that document?

4 A. No.

5 Q. Do you know where it came from?

6 A. Well, I know who Quentin Walker is, so  
7 it -- Quentin Walker was a -- an HR associate at  
8 power train operations.

9 Q. Was that memo distributed to the  
10 salaried employees?

11 A. I don't know.

12 Q. Okay. You read it. Did it appear --  
13 the information appear to be accurate there that  
14 you read through?

15 A. It matches with my understanding of  
16 the -- of some of the process that was happening  
17 later in the transition period while I was there.

18 Q. All right. Hand you what's been  
19 marked as Exhibit 78 and I'm also going to hand you  
20 79 at the same time because I think they might be  
21 related. This is 79. I'm not going to ask you  
22 about every page in it, Mr. Warden, but familiarize  
23 yourself with it. And just for the record, while  
24 you're looking it over then -- I've already marked

1 it. Exhibit 78 says "ZF Batavia Rewards Philosophy  
2 and New Rewards Programs." It's Bates stamped  
3 2964. Deposition 79 has "Table of Contents" on the  
4 top and it's Bates stamped marked number 2858  
5 through 2870. And Exhibit 78 is 2964 through 2977.

6 And my question to you generally about  
7 both of these sets of documents, I'm just -- are  
8 these -- were these documents created out of this  
9 meeting or meetings you attended with Ernst and  
10 Young?

11 A. I don't know for certain that that's  
12 the case, one way or the other.

13 Q. Okay. I guess --

14 A. I -- 79 appears that it was.

15 Q. All right. Okay. And 79, it says on  
16 the second page -- go to the second page for a  
17 second. It says the design team met on February  
18 11th and 12th in Batavia, Ohio. And I think I --

19 A. Second page? Okay.

20 Q. And we've -- we have established that  
21 you were a part of that design team, right?

22 A. I was part of the meetings that Ernst  
23 and Young had at Batavia, which I recall as being  
24 one or two days.

1 Q. So as far as you understand, you were  
2 at these meetings on February 11th and 12th?

3 A. Yes, if that's those meetings.

4 Q. Let's see. Turn to 2861. I just want  
5 to ask you about specific things in here. See at  
6 the very bottom of 2861 where it says, "Careful  
7 consideration must be given to avoid creating two  
8 classes of employees"?

9 A. Yes, I see that statement.

10 Q. All right. Do you remember, was this  
11 something that was raised during these meetings,  
12 that concern?

13 A. There were a number of concerns raised  
14 because of the difficulties we were -- that -- that  
15 everyone was envisioning with respect to Ford  
16 transitional employees versus new hire employees  
17 versus Zed-F transferring employees from Zed-F  
18 versus the hourly employees as UAW employees  
19 continuing to be subject to the UAW-Ford  
20 agreements. So that -- that certainly could have  
21 and probably was one of the -- one of the  
22 considerations.

23 Q. Okay. Well, just generally then,  
24 Exhibit 79 -- I mean, as far as you understand it,

1 is this a fair reflection of things, issues that  
2 were discussed during these February meetings with  
3 Ernst and Young?

4 A. I have no reason to believe that it is  
5 not.

6 Q. Okay. You can put that one aside.  
7 Stick with Exhibit 78, then, for a second. Exhibit  
8 78, you weren't sure if this was in relation to a  
9 Ernst and Young meeting. Do you -- and in fact, it  
10 actually was at least two months after that  
11 February meeting, right?

12 A. Yes.

13 Q. Was this, if you know, was this set of  
14 documents created as a result of your meetings with  
15 Ernst and Young, which ultimately resulted in  
16 putting together a package of compensation  
17 benefits?

18 A. I don't know. I -- I -- what I do  
19 know is that I did not create this document.

20 Q. Any idea who did?

21 A. No.

22 Q. Turn to 2966, which is page 3 of that  
23 same document.

24 A. This one?

1 Q. Yeah, just turn down that one.

2 A. Okay.

3 Q. Do you remember any kind of meeting  
4 that you had with design plan or other people in  
5 management at ZF Batavia or Ford where they  
6 discussed some of these issues about ZF Batavia's  
7 awards philosophy regarding base pay, annual  
8 incentive plan, merit increase program, et cetera?

9 A. There were a number of meetings where  
10 those things were discussed that I was a part of.

11 Q. All right. This, in fact -- if this  
12 is correct, this was -- this says April 9th, 1999  
13 at the top. And you would agree with me that  
14 within a very short period of time after that, the  
15 final touches were put on the package of  
16 compensation and benefits and offers were sent out?

17 A. Yes.

18 Q. Okay. See where it says "Merit  
19 Increase"? We're still back on page 3, sorry.

20 A. Okay.

21 Q. See where it says "Merit Increase  
22 Program"? You tell me if I read this correct. It  
23 says, "Merit increases will be continued, but each  
24 year the amount will decrease by a fixed amount.



1 Over time, merit increases for transitional  
2 employees will align with those of new hires and be  
3 at a level in line with the annual inflation rate."  
4 Have I read that correctly?

5 A. Yes.

6 Q. Do you remember anyone ever expressing  
7 the same kind of sentiment in one of these meetings  
8 or any conversations you had with management during  
9 this time?

10 A. I don't recall specific references to  
11 that.

12 Q. Was that, in fact, as you understood  
13 it, the plan going forward regarding merit  
14 increases?

15 A. I had no understanding about that. I  
16 can understand why it would be.

17 Q. Okay.

18 A. Because the initial -- the initial  
19 merit increases as they were envisioned by the  
20 joint venture, by ZF Batavia, were -- were to be  
21 higher for Ford -- Ford transitional employees  
22 than -- than we would expect from -- for the new  
23 hires.

24 I can understand why such a philosophy

1 would be developed, so that eventually the level of  
2 increases might be the same.

3 Q. I may have lost you there. At the --  
4 in 1999, the last -- I'm sorry. Stay on page 3  
5 there. In 2000, are you saying there would have  
6 been some difference in the merit increase  
7 comparing a Ford transitional employee who had  
8 joined the joint venture versus a new hire from ZF  
9 Batavia?

10 A. There certainly could have been, yes.

11 Q. Why would that have been built-in to  
12 the system, that there would be a difference?

13 A. Because the Ford salaried employees  
14 had a higher salary to begin with.

15 Q. I understand.

16 A. And so on a percentage basis, they'd  
17 be receiving higher dollar amount increases.

18 Q. Okay. So you can understand why the  
19 company would want to have going forward each year,  
20 a lower percentage of merit increase for the Ford  
21 transitional employees as compared to the ZF  
22 Batavia new hires?

23 A. I could understand why going forward  
24 it would make sense for -- for there to be a more

1 level philosophy, as far as the dollar amounts of  
2 merit increases. It's much the same as the  
3 philosophy at Ford Motor, which -- which where  
4 we -- we tend to look at merit increases in dollar  
5 amounts, as opposed to percentage amounts.

6 Q. I mean, ultimately, you understood  
7 that the trend here would be to align the salaries  
8 of new hires with Ford transitions?

9 MR. VANWAY: Objection to form. I  
10 believe he testified he was familiar with this  
11 document.

12 Q. That's what I'm saying. You've  
13 explained, Mr. Warden, why they would want to do  
14 with the merit increases what's described here on  
15 page 3 of this document. And what I'm saying is  
16 you understood, too, that it would make sense as a  
17 trend going forward to have the Ford transitional  
18 salaried employees -- their annual salaries align  
19 with those new hires?

20 A. No, that's not what this says.

21 Q. But didn't you understand that to be  
22 the plan?

23 A. No.

24 Q. Why not?

1           A.     What -- what this says is that the  
2     increases over time would -- would start aligning  
3     with the amounts provided for new hires.

4           Q.     So the actual --

5           A.     So that doesn't necessarily -- well,  
6     it -- it doesn't mean that the salaries would be  
7     the same.

8           Q.     I think we're done with 78. You can  
9     give that to the court reporter.

10          A.     Are we finished with 79, too?

11          Q.     Yeah. That's 80. This is 80. 80,  
12     for the record while you're just reviewing is Bates  
13     stamped 2673 to 2684. And my question to you as  
14     you flip through it is, have you ever seen this  
15     document before?

16          A.     I don't believe I have, no.

17          Q.     Okay. Do you have any idea who  
18     created it or where it came from?

19          A.     No, I don't.

20          Q.     You can throw that on the pile. 81.  
21     81 for the record is Bates stamped 2631 through  
22     2633. Same question, Mr. Warden, did you author  
23     this? Do you know who did?

24          A.     I didn't author it. I don't know who

1 did.

2 Q. Does it reflect -- fairly reflect  
3 deadlines that were imposed on a -- handling all  
4 these different issues with the transitional  
5 employees and putting together a package of  
6 compensation, benefits?

7 A. I -- I'm not familiar with this  
8 document, so I can't say one way or the other.

9 Q. One second here. Okay. This is 82.  
10 It's -- on the front is a fax cover page from -- to  
11 Mr. Kehr to Ernst and Young. It's Bates stamped  
12 the Plaintiffs' Bates stamp 652 to 662. Have you  
13 ever seen these documents before?

14 A. I don't recall seeing this document  
15 before.

16 Q. On the second page, it says,  
17 "Incentive Plan Talking Points March 16, 1999." Do  
18 you have any idea what that's referring to?

19 A. No. The idea I would have is that it  
20 would be speaking to the annual incentive plan.

21 Q. That second page, it's actually page 2  
22 of the document where it says "Base Pay," are you  
23 on that?

24 A. Yes.

1 Q. See where it says "Transition Plan" in  
2 the middle? It says, "ZF Batavia is willing to pay  
3 Ford employees at comparable to current levels  
4 throughout the transition." Have I read that  
5 correctly?

6 A. That's what it says.

7 Q. That, and the fact is in April 1999,  
8 that was a true statement, correct?

9 A. Yes.

10 Q. That was the intent, to pay Ford  
11 employees at comparable to current levels  
12 throughout the transition?

13 A. I don't know what the intent of this  
14 document was. I -- I agree with you as to what it  
15 says.

16 Q. I'm asking since you were involved in  
17 these discussions, was it -- the intent of those  
18 who were in management at Ford and at ZF Batavia  
19 who were involved in these discussions regarding  
20 the Ford transitionals, that it was the intent to  
21 pay Ford transitional employees at comparable to  
22 current levels throughout the transition period?

23 A. The intent -- this document says, "ZF  
24 Batavia is willing to pay Ford employees at

1 comparable to current levels throughout the  
2 transition." It does not say Ford transitional  
3 employees.

4 Q. All right.

5 A. My understanding, however, of initial  
6 offers for Ford employees, if they wish to  
7 discontinue their Ford employment and -- and be  
8 hired by ZF Batavia, was that the offer would be at  
9 a competitive level.

10 Q. Okay. See where it says, then, "It is  
11 OK if a two-tier base pay structure is in place  
12 short-term (next three years)"?

13 A. Yes --

14 Q. Have I --

15 A. -- I see that.

16 Q. -- read that correctly? Next three  
17 years -- I actually didn't write this document, but  
18 three years going forward from 1999 was roughly the  
19 transition period in your mind?

20 A. In my mind, yes.

21 Q. Okay. And others expressed a similar  
22 time frame?

23 A. Yes.

24 Q. Okay. And you understood that there

1 would be a two-tier base pay structure in that you  
2 have the Ford transitional salaried that made --  
3 were in a certain band, and then the ZF Batavia new  
4 hires would be in another band, right?

5 A. Yes.

6 Q. It would be a two-tier base pay  
7 structure?

8 A. Correct.

9 Q. And it was -- this document reflects  
10 what was accurately the sentiment of those in  
11 management in Ford and ZF Batavia at the time, that  
12 that was okay to have that two-tier base pay  
13 structure for those two -- two groups for the next  
14 three years?

15 A. Well, it was -- that was ZF Batavia's  
16 plan to -- to have a two-tier structure because of  
17 the desire to make offers -- competitive offers to  
18 employees who were then Ford employees to  
19 discontinue their employment with Ford and become  
20 employees of ZF Batavia.

21 Q. Okay.

22 A. That was the -- that was the reason  
23 for the two-tier system.

24 Q. Right. And I just want to say how I



1 read this is, what this means is that two-tier base  
2 pay structure with Ford transitionals having one  
3 band -- salary band and ZF new hires having another  
4 band. That two-tier base pay structure was fine  
5 for three years, but after that, that would be  
6 changed. Is that how you understood it?

7 A. No.

8 Q. Is that how you read this document?

9 MR. VANWAY: Are you referring just to  
10 page 2 or --

11 MR. SIMON: Yes.

12 MR. VANWAY: -- the entirety of the  
13 document including page 2?

14 MR. SIMON: I'm referring to page 2.  
15 I was referring just to that sentence.

16 A. The sentence says, "It is OK if a  
17 two-tier base pay structure is in place in the  
18 short-term (next three years)." That's what it  
19 says and that's my only understanding of that --

20 Q. Okay.

21 A. -- of that statement because I did not  
22 author this or -- and I don't believe I've seen it  
23 before.

24 Q. Okay. We are done with that document.

1 All right. This tentatively could be the last  
2 document.

3 A. Good.

4 Q. Exhibit 83. I think this document has  
5 been -- it's about salary banding. -- at another  
6 deposition, but I don't believe it was ever marked.  
7 At the top on the cover page, "ZF Batavia L.L.C.  
8 offers you this Salaried Employee Benefit Program."  
9 It's Ford Bates stamped 1336 through 1339. Have  
10 you ever seen Exhibit 83 before, Mr. Warden?

11 A. Yes, I have.

12 Q. Okay. And was this set of documents  
13 the benefits summary that was given to ZF Batavia  
14 new hires?

15 A. Yes.

16 Q. Okay. It was not given to ZF  
17 Batavia -- excuse me. It was not given to Ford  
18 transitionals; that's correct?

19 A. It was not given to Ford transitionals  
20 unless it was in -- in conjunction with retiring  
21 from Ford Motor Company and then being hired by ZF  
22 Batavia.

23 Q. Okay. Only in that situation, based  
24 on your understanding, would a Ford transitional

1 employee consider and gone to ZF Batavia would he  
2 or she have been given Exhibit 83, right?

3 A. As part of an -- as part of an offer  
4 of employment, that's correct.

5 Q. Okay.

6 A. This was not kept secret from anyone.

7 Q. Right.

8 A. Okay.

9 Q. The Ford transitional employees should  
10 have gotten Exhibit 2, which is the tri-fold, gray  
11 brochure, right?

12 A. Yes.

13 Q. And the people who you hired in off  
14 the street, so to speak, the new hires, they would  
15 get Exhibit 83?

16 A. Yes, as a general course of business  
17 as part of their offer.

18 Q. Okay. I said "the last document." We  
19 knew that wasn't going to be. I apologize. I  
20 don't think I've shown you Exhibit 11.

21 A. Yes, you have.

22 Q. I have shown you Exhibit 11?

23 MR. SIMON: Off the record.

24 (Off the record: 12:29 p.m. - 12:38 p.m.)

1 MR. SIMON: We're back on the record.  
2 Just a few more wrap-up questions, Mr. Warden.

3 Q. Any other conversations that you  
4 remember with any of my 15 clients who I named  
5 earlier, any other conversations that you recall,  
6 either before they made their decision to join ZF  
7 Batavia or after they made their decision? Did you  
8 have any conversation with them that somehow  
9 related back to the decision, anything like that at  
10 all that you haven't testified to?

11 A. I -- I don't recall any specific  
12 discussions with the clients that you -- that you  
13 showed me earlier.

14 Q. Okay. Any other meeting that you  
15 haven't testified about or conversation you haven't  
16 testified about generally regarding salaried  
17 employees and what they were told in '98, '99?

18 A. None that I recall.

19 Q. Do you have an employment agreement  
20 with Ford?

21 A. I -- I applied for work with Ford  
22 Motor and -- and I believe that I signed employment  
23 papers that included an employment agreement.

24 Q. Okay.

1           A.     But that's been 25 years ago and --  
2     and knowing the processes now, I believe they were  
3     the same then.

4           Q.     All right. Are you at will?

5           A.     Yes.

6           MR. SIMON: Okay. I have no more  
7     questions.

8           MR. VANWAY: Okay. He does not waive  
9     signature.

10          MR. SIMON: We're off the record.  
11     Thank You. We're done. Thank you, sir.

12          THE WITNESS: You're welcome.

13          (Deposition concluded at 12:41 p.m.)

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Michael Warden

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1 C E R T I F I C A T E

2

3 STATE OF OHIO :

4 : SS

5 COUNTY OF HAMILTON :

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7 I, Susan M. Barhorst, a Notary Public in  
8 and for the State of Ohio, duly commissioned and  
9 qualified, do hereby certify that prior to the  
10 giving of this deposition the within-named MICHAEL  
11 WARDEN was by me first duly sworn to testify the  
12 truth, the whole truth, and nothing but the truth;  
13 that the foregoing pages constitute a true,  
14 correct, and complete transcript of the testimony  
15 of said deponent, which was recorded in stenotypy  
16 by me, and on the 2nd day of September 2003 was  
17 submitted to counsel for deponent's signature.

18 I further certify the within deposition was  
19 duly taken before me at the time and place stated,  
20 pursuant to the Federal Rules of Civil Procedure;  
21 that I am not counsel, attorney, relative or  
22 employee of any of the parties hereto, or their  
23 counsel, or financially or in any way interested in  
24 the within action, and that I was at the time of

1 taking said deposition a Notary Public in and for  
2 the State of Ohio.

3 IN WITNESS WHEREOF, I have hereunto set my  
4 hand and notarial seal at Cincinnati, Ohio, this  
5 2nd day of September 2003.

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Susan M. Barhorst, Notary Public  
in and for the State of Ohio.  
My commission expires  
February 18, 2004

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